

1 UNITED STATES DISTRICT COURT
2 MIDDLE DISTRICT OF TENNESSEE
3 NASHVILLE DIVISION

4 UNITED STATES OF AMERICA)
5 VS) No. 3:22-cr-327
6 CHESTER GALLAGHER [1])
7 HEATHER IDONI [2])
8 CALVIN ZASTROW [3])
9 COLEMAN BOYD [4])
10 PAUL VAUGHN [6])
11 DENNIS GREEN [7])

12 BEFORE THE HONORABLE ALETA A. TRAUGER, DISTRICT JUDGE

13 TRANSCRIPT OF PROCEEDINGS

14 January 29, 2024

15 (Volume 5-B)

16
17
18
19
20
21
22 **Roxann Harkins, RPR, CRR**
23 Official Court Reporter
24 719 Church Street, Ste 2300
25 Nashville, TN 37203
615.403.8314
roxann_harkins@tnmd.uscourts.gov

APPEARANCES :

For the Government: AMANDA J. KLOPF
US Attorney's Office
719 Church Street, Suite 3300
Nashville, TN 37203

KYLE RANDOLPH BOYNTON
WILFRED T. BEAYE , JR.
U.S. Department of Justice
150 M St. NE
Washington, DC 20530

For the Defendant Gallagher:

JODIE A. BELL
Law Office of Jodie Bell
214 Second Avenue North
Suite 208
Nashville, TN 37201

For the Defendant Idoni:

WILLIAM J. CONWAY
214 Second Avenue North
Suite 208
Nashville, TN 37201

For the Defendant Zastrow:

ROBERT LYNN PARRIS
200 Jefferson Avenue
Suite 1500
Memphis, TN 38103

DAVID I. KOMISAR
800 Broadway
Third Floor
Nashville, TN 37203

1 For the Defendant Boyd:

2 G. KERRY HAYMAKER
3 Haymaker & Heroux
4 300 James Robertson Parkway
Suite 306
Nashville, TN 37201

5 STEVEN C. THORNTON
6 PO Box 16465
Jackson, MS 39236

7
8 For the Defendant Vaughn:

9 STEPHEN CRAMPTON
10 Thomas More Society
PO Box 4506
11 Tupelo, MS 38803

12 For the Defendant Green:

13 MANUEL B. RUSS
14 340 21st Avenue North
Nashville, TN 37203
15
16
17
18
19
20
21
22
23
24
25

I N D E X

Closing argument by Government.....	6
Closing argument by Defendant Gallagher.....	29
Closing argument by Defendant Zastrow.....	45
Closing argument by Defendant Boyd.....	50
Closing argument by Defendant Vaughn.....	69
Closing argument by Defendant Green.....	90
Closing argument by Defendant Idoni.....	98
Government Rebuttal argument.....	108
Jury Charge.....	130

1
2 The above-styled cause came to be heard on
3 January 29, 2024, before the Hon. Aleta A. Trauger,
4 District Judge, when the following proceedings were had
5 at 12:22 p.m., to-wit:

6
7 THE COURT: All right. Are we ready for the
8 jury? Okay. Bring the jury in.

9 (Whereupon, at 12:23 p.m. the jury returned
10 to open court.)

11 THE COURT: Good afternoon. We apologize
12 for the delay. We are starting today at 12:25 with the
13 jury.

14 Has everyone followed my instructions to not
15 talk about the case amongst yourselves or with anyone
16 else?

17 Has everyone followed any instruction to
18 ignore any news coverage that you may have stumbled upon?

19 Everyone followed my instruction to not do
20 any research about anyone or anything connected to the
21 case? Very good.

22 Members of the jury, we're going to have
23 closing arguments and then we will be passing out
24 individual copies of the instructions so that you may
25 follow along as I read them to you. And then you will

1 begin your deliberations.

2 So the government begins and ends the
3 closing arguments. Mr. Boynton.

4 GOVERNMENT CLOSING ARGUMENT

5 MR. BOYNTON: Thank you, Your Honor.

6 When Sergeant Schneider of the Mt. Juliet
7 Police Department heard that a woman needed to get into
8 the clinic that morning, he did his job as a police
9 officer to enforce the law. It didn't matter to him
10 whether the woman was an employee or a patient. And if
11 she was a patient, it didn't matter to him what kind of
12 appointment she was there for. He walked down the
13 hallway to the clinic entrance, shepherding the woman
14 down the hall with him.

15 Sergeant Schneider saw the group ahead. The
16 group that included defendants Paul Vaughn, Calvin
17 Zastrow, Chester Gallagher and Dennis Green, as well as
18 Caroline Davis. The blockaders crowded in front of him,
19 obstructing the path into the clinic.

20 But Sergeant Schneider didn't turn back. He
21 kept doing his duty as a police officer. Sergeant
22 Schneider had to use his hands to force defendant Zastrow
23 out of their way. That's what it took, force, to try to
24 get this patient to the clinic door.

25 Listen to the words defendant Paul Vaughn

1 said, telling Sergeant Schneider to not do his job.
2 Listen to the words of defendant Chester Gallagher
3 telling Sergeant Schneider they won't let him do his job.
4 And watch Chester Gallagher keep trying to block the
5 patient as they moved forward.

6 (Playing video.)

7 Remember the words of the woman Sergeant
8 Schneider escorted, the patient seeking medical care.
9 You heard her exclaim that she wasn't there for an
10 abortion. Her words didn't matter to the blockaders.
11 Think about that. It didn't matter what kind of
12 reproductive healthcare she was there for. And it didn't
13 matter to the blockaders that this was an officer of the
14 law telling them to move.

15 And remember the view from another angle,
16 Exhibit 2I. Defendant Dennis Green is holding a camera.
17 And as Sergeant Schneider approaches he sits down behind
18 defendant Calvin Zastrow, the next line of the blockade.

19 Sergeant Schneider wasn't the only officer
20 that these defendants defied. And this woman wasn't the
21 only patient these defendants prevented from seeing her
22 doctor to get reproductive healthcare. There is simply
23 no question what occurred in this case. The defendants
24 agreed and planned to blockade a clinic, and then they
25 worked together to do it.

1 There's overwhelming evidence that these six
2 defendants and the other co-conspirators planned their
3 crimes carefully, their scheme to block access to
4 reproductive health services, their scheme to interfere
5 with others' rights. Many of them traveled from out of
6 state to come to Mt. Juliet, made travel plans, lodging
7 arrangements. Most met in person to organize and plan
8 this conspiracy. Several communicated by Facebook
9 Messenger. They planned and they worked together.

10 And on top of all that, you have the
11 testimony of Caroline Davis, a member of the conspiracy,
12 who sat on that witness stand for over six hours taking
13 responsibility for her role in this, telling you how she
14 and these six defendants conspired to break the law and
15 did break the law.

16 Ladies and gentlemen, that's exactly what
17 they are charged with doing. Each of these defendants is
18 charged with two crimes. In Count One the conspiracy
19 count, the defendants are charged with conspiring to
20 oppress, threaten and intimidate providers from providing
21 and patients from receiving reproductive health services.

22 In Count Two, the FACE count, the defendants
23 are charged with using physical obstruction to interfere
24 with patients and providers because they are obtaining or
25 providing reproductive healthcare.

1 Judge Trauger will instruct you on the law
2 after all of our closing arguments. You're likely to
3 hear that there are three elements to a conspiracy
4 against rights: First, that the defendant joined in
5 agreement; second, that the aim of the agreement was to
6 oppress, threaten or intimidate a person from obtaining
7 or providing reproductive health services; and third,
8 that it was the defendants' intention to do just that.

9 Conspiracy is a fancy way to say an
10 agreement to do something unlawful. It doesn't have to
11 be anything formal, just an agreement. Makes no
12 difference if they joined at the beginning or the day of
13 or even after the blockade was already underway or even
14 whether they were active participants in the blockade
15 itself.

16 And I expect you'll hear the Judge tell you
17 that the defendant may be a conspirator without knowing
18 all of the details of the unlawful plan or the names or
19 exact identities of all the other alleged conspirators.
20 And I expect you'll hear that there doesn't have to be
21 some sort of formal agreement or a plan in which every
22 person involved sat down and worked out every detail.

23 Common understanding. That is what you're
24 looking for. Was there a common understanding among
25 those involved to commit this crime? In this case a

1 defendant is guilty of Count One if they joined the
2 agreement to block the clinic and prevent patients from
3 accessing and employees from providing reproductive
4 health services with the intention of carrying that
5 interference out. All six of them did. It's the only
6 reason why we're -- they were there.

7 Now, don't be confused by the word right.
8 It's not talking about any right to an abortion. The
9 Supreme Court has held there isn't such a right. The
10 right charged here is the right to access legal
11 reproductive healthcare, whatever it may be. And the
12 Judge will instruct you that it is a right, meaning you
13 don't have to wrestle with deciding whether it is or
14 whether it should be a right. The law says it is a
15 right.

16 Let's talk about Count Two, the violation of
17 the FACE Act. For Count Two the government must prove
18 beyond a reasonable doubt that the defendants used
19 physical obstruction to intentionally interfere with
20 Melissa Ashby or the employees because Melissa Ashby was
21 receiving or the employees were providing reproductive
22 healthcare.

23 Intentionally interfere. That's all the
24 government is contending happened here. Interfered with
25 patients and providers because they were obtaining or

1 providing reproductive healthcare.

2 There are actually two ways to prove that a
3 defendant used physical obstruction in this way. The
4 first way is obvious. A defendant is guilty if the
5 evidence shows that he or she directly used physical
6 obstruction; defendant Calvin Zastrow, defendant Chester
7 Gallagher, defendant Dennis Green, defendant Heather
8 Idoni, defendant Paul Vaughn.

9 A second way a defendant is guilty of this
10 crime is if the evidence shows that the defendant aided
11 and abetted a physical obstructor. That means a
12 defendant is guilty of Count Two even if they did not
13 themselves physically obstruct, but they intentionally
14 helped or encouraged someone else to physically obstruct.

15 Again, ladies and gentlemen, the evidence of
16 these crimes is overwhelming. Defendants Idoni,
17 Gallagher, Green, Vaughn and Zastrow directly used
18 physical obstruction. All the defendants, all the
19 defendants, including defendant Coleman Boyd, helped and
20 encouraged the physical obstructors. All were members of
21 the conspiracy to obstruct. All are guilty.

22 This blockade wouldn't work without all the
23 pieces. Think about that. It took a whole group to shut
24 down the clinic that morning. Two, four, even six people
25 crowding doors could have been carted off by police in

1 minutes. It took more than that. It took blockaders, it
2 took blowfish, the people who crowd the hallway until the
3 final order to disperse is given, manipulating the police
4 into thinking many more people would need to be arrested.

5 It took negotiators to stall the police, to
6 deceive the police into thinking that people might just
7 leave. It took planners and trainers and it took
8 recruiters to gather people that day to stream their
9 actions over the Internet to recruit and train others.

10 It was no coincidence that Caroline Davis
11 and her six co-conspirators ended up at the clinic at
12 7:45 a.m. that morning. None of them were just there
13 from Michigan or Mississippi or Virginia or 90 minutes
14 away in Tennessee just looking for a bathroom. Before
15 the first blockader ascended those stairs, they knew the
16 crime they were about to commit and what their roles
17 would be in carrying it out.

18 What they call a rescue is a blockade of a
19 reproductive health facility. They knew that. You saw
20 videos of defendant Gallagher reminding everybody not to
21 be photographed in front of doors. And all of the
22 evidence of each of these six defendants' participation
23 in a rescue proves their guilt on Count Two. And all the
24 evidence of their participation in the agreement to
25 rescue proves their guilt on Count One.

1 You know why they were all there and what
2 role each of them played. You don't even need to rely on
3 Caroline Davis, that young woman who took the stand to
4 tell you how she got caught up in all of this and who has
5 now taken responsibility for her participation in these
6 crimes.

7 The questions for you in deliberation are
8 ultimately very simple. Is there proof beyond a
9 reasonable doubt that these six defendants obstructed
10 access and/or helped others obstruct access to this
11 clinic with the intent to interfere with reproductive
12 health services? There's proof beyond all doubt.

13 And second, is there proof beyond a
14 reasonable doubt that they entered -- each entered into
15 an agreement to do so? Again, overwhelming evidence,
16 proof beyond all doubt. None of these defendants had
17 just pulled off the road wondering what this was all
18 about. None of them was there for a doctor's appointment
19 at another office and just decided to stand around with a
20 group blocking doors. They were all there intentionally,
21 and each had a role to play in helping the blockade
22 succeed for two and a half hours.

23 But of all the video in this case,
24 Government's Exhibit 4, the clinic employee's cell phone
25 video, may be one of the most significant. The two

1 minutes of video illustrates clearly how defendant
2 Zastrow, defendant Vaughn, defendant Gallagher and
3 defendant Idoni blocked access and how defendant Coleman
4 Boyd aided and abetted them. Exhibit 4 shows patient
5 Melissa Ashby who had come to receive reproductive
6 healthcare at the clinic. You heard her testify to how
7 anxious she felt about the crowd in front of her blocking
8 her path. You heard from Nicko Ashby, the husband and
9 soldier, an Army veteran of two deployments, who felt he
10 would need to turn into a human wrecking ball to get
11 through this blockade.

12 Now take a look at Exhibit 4, a few moments
13 after the Ashbys arrived. Look at what Melissa Ashby and
14 her husband were facing. There's the clinic door all the
15 way at the back; defendant Zastrow on the left, defendant
16 Vaughn on the right; part of the horseshoe Caroline Davis
17 talked about. The patients' path was blocked. She was
18 never getting to that door.

19 In his opening statement defendant Vaughn's
20 attorney told you his client only played a role, quote,
21 disengaged from any actions near the clinic entrance.
22 You know that was false. You know that in this moment in
23 the clinic employee's video patient, Melissa Ashby was in
24 this hallway, and right there is defendant Vaughn
25 blocking her path to the clinic.

1 You've seen the video with the clinic
2 employee trying to get back into the clinic after coming
3 out to assist Melissa Ashby. You know that is defendant
4 Cal Zastrow. And you know from Caroline Davis that the
5 child in the camo hat and blue shirt is defendant Boyd's
6 son who defendant Boyd encouraged to blockade. You're
7 trespassing. Yes, ma'am, I am. And a moment later as
8 the employee is blocked from returning to her office,
9 there's the patient entrance, blocked by defendant
10 Heather Idoni with defendant Chester Gallagher in front
11 of her.

12 In the two minutes that Exhibit 4 goes on
13 for, defendant Idoni, defendant Zastrow, defendant Vaughn
14 and defendant Gallagher are working together to block
15 access to this clinic. And their blockade prevents
16 Melissa Ashby and Sarah Flowers, the clinic employee,
17 from gaining access.

18 And this is the moment in time from his own
19 videos that makes defendant Coleman Boyd's role as an
20 aider and abettor, someone who intentionally helps a
21 crime or encourages someone else to commit a crime,
22 clear. Coleman Boyd is guilty of Count Two as an aider
23 and abettor.

24 Again, just look at Exhibit 4. Remember
25 Caroline Davis's testimony that he kept watch for

1 patients from the elevator. And remember patient Melissa
2 Ashby's testimony about the anxiety and intimidation she
3 experienced being filmed inside this private property in
4 the hallway. Defendant Boyd asking her questions about
5 why she was there. But take the closest look at
6 Exhibits 1A, C, D and E. The video footage from
7 Mr. Boyd's own livestream video. Listen to him take
8 advantage of the blockade to coordinate with the hallway
9 counselors, including his daughter, to pursue the Ashbys.

10 The defendants didn't care about the clinic
11 employees or the Ashbys or all the officers tied up on
12 this lengthy response that day. Or the patients and
13 employees going to other medical offices in that building
14 during the two and a half hours that the defendants used
15 their bodies to prevent people from receiving
16 reproductive healthcare. They didn't care because that
17 was their plan, their plan that began weeks before
18 March 5. Their plan, their conspiracy was to shut down
19 that clinic for as long as they could.

20 Let's talk about the conspiracy. This was
21 an agreement to violate the law. You know this agreement
22 happened because of social media, Google research,
23 travel. The strategy meeting that Caroline Davis
24 described, the specific roles for the blockade and, most
25 importantly, the coordination during the blockade itself.

1 Remember Caroline Davis testified that she
2 heard this plan hatched between Chester Gallagher and
3 Calvin Zastrow over phone calls. The clinic in
4 Mt. Juliet was chosen because the sidewalk counselors
5 lawfully outside had no way to identify who was going to
6 the clinic and who was going to the orthodontist or
7 heading in for physical therapy. They didn't know who to
8 talk to, so they needed a blockade at the clinic to turn
9 clinic patients around at the clinic doors.

10 By February 9 things were already rolling.
11 The defendant Heather Idoni on the bottom, Gallagher on
12 the top. They're talking about housing in Nashville,
13 Defendant Zastrow's adult daughter. They mentioned
14 defendant Boyd's family. They mentioned contacting
15 defendant Green. And right there is defendant Idoni
16 referring to rescuers bringing families.

17 By February 9 it's clear to these two that
18 this would be a blockade, a hoorah as defendant Zastrow
19 put it, and they need as many people as possible to
20 assist.

21 Five days later, defendant Calvin Zastrow
22 has a two-bedroom condo set. Defendant Green and his
23 family are confirmed. And when defendant Gallagher asks
24 about someone coming from Wichita, defendant Idoni wants
25 to know if she will be risking arrest, is she for real.

1 And look what defendant Gallagher says. I will
2 prequalify any I send your way.

3 Before people showed up on March 5,
4 defendant Gallagher wanted to know who was planning on
5 blockading. By February 22, talk has turned to what they
6 were doing when they get to Tennessee. They would need
7 to meet in the evening. There are three meetings, two at
8 the Wyndham, one at a church. Defendant Idoni says
9 she'll share with the Greens, the Boyds and Cal Z.
10 That's defendant Zastrow.

11 And remember the conspiracy isn't just the
12 Facebook messages and the meetings beforehand. You saw
13 this conspiracy happen live. All of the coordination
14 between the defendants that day to help this blockade
15 begin, continue, adapt to the circumstances, adapt to
16 patients coming onto the floor, adapt to the decisions by
17 the police, all of those things were part of this
18 continuing agreement to blockade access. You saw it
19 happen live.

20 Next we're going to walk through each
21 defendant's role in the conspiracy and the blockade
22 itself. I'll start with defendant Coleman Boyd. When
23 Mr. Haymaker, defendant Boyd's attorney, delivered his
24 opening statement, his last words to you was a question:
25 What did Coleman Boyd do? The answer is very simple. He

1 conspired with the other defendants to blockade access to
2 this clinic, and he aided and abetted interference.

3 Mr. Boyd traveled from Mississippi, he spoke
4 at the planning meeting. He created this plan to put
5 blockaders in masks and on crutches to be able to get
6 inside without being recognized, without anyone knowing
7 that anything was up. He brought his minor children to
8 blockade. He livestreamed the Ashbys. He was the
9 spotter at the elevator. And he directed others to
10 pursue the Ashbys. Remember Caroline Davis's testimony
11 that she heard him counsel his minor children to
12 blockade.

13 Giving encouragement in biblical verse might
14 sound better, but it's still aiding and abetting,
15 particularly when you're there to watch it all happen, to
16 film it, to livestream it. Help coordinate counselors to
17 go after the patients blockaded from getting in the
18 clinic. Mr. Boyd was the spotter at the elevator and he
19 directed others to go after the Ashbys.

20 Rewatch the clips from Governments
21 Exhibits 1, 2 and 3. These three videos, including
22 defendant Boyd's, are recruitment and training videos.
23 Together the three videos show you how to blockade a
24 healthcare clinic, get there before the patients, block
25 the doors. Only people willing to go to jail should be

1 seen in front of the doors, have people designated to
2 talk with the police in a play for time, have someone
3 looking for patients.

4 Defendant Boyd highlights the importance of
5 that last one. Listen to Exhibit 1C. He is reciting his
6 plan to his audience live. While the blockaders hold the
7 doors, defendant Boyd is by the elevator where clinic
8 patients are likely to appear. He's the blockaders'
9 first point of contact for patients and families. Slow
10 people at the end of the hallway, then while the patient
11 is blockaded from entering the clinic, direct the hallway
12 counselors on the floor and elsewhere to the patients.

13 Remember this clip. Remember that Caroline
14 Davis testified that she arrived right after patient
15 Melissa Ashby left. This is defendant Boyd's video.
16 You're about to see Caroline Davis and defendant Green
17 arrive. And you're about to hear defendant Boyd on his
18 cell phone telling someone that there's a girl coming
19 back down. He's directing the person on the other end of
20 that phone to go talk to them.

21 You know that that woman is Melissa Ashby.
22 This is a key part of the conspiracy and the blockade.
23 It's not just about blocking doors. It's about blocking
24 doors so women and families can't get in and those
25 working with the blockaders can pursue those women and

1 families, something Melissa and Nicko Ashby were very
2 clear that they did not want.

3 The clinic employee called it harassment,
4 but there are better legal terms for it, and they'll come
5 from the legal instructions we expect Judge Trauger is
6 about to give to you: Interference, oppression,
7 intimidation. Defendant Coleman Boyd is guilty on both
8 counts.

9 (Playing video.)

10 Defendant Calvin Zastrow. Mr. Zastrow
11 recruited Caroline Davis to blockade. He hatched this
12 plan with defendant Gallagher. He traveled from
13 Michigan. He's one of the leaders in the planning
14 meeting in the park and he blocked and blocked and
15 blocked. And he refused to leave after the final police
16 warning and had to be arrested.

17 (Playing video.)

18 That's defendant Zastrow telling the police
19 that today is not a protest. It's not a protest. It's a
20 crime, it's a blockade to shut this clinic down for as
21 long as possible. And that's why he and others did not
22 leave. Defendant Zastrow is guilty on both counts.

23 Heather Idoni joined this conspiracy and
24 blocked the entrance to the clinic. You heard that
25 Caroline Davis knows her well; that Ms. Idoni arranged

1 accommodations; that she wanted only people risking
2 arrest to bunk on her reservation. She arranged the room
3 for the strategy meeting. She drove from Michigan. She
4 blockaded, she attended the planning meeting, she
5 blockaded the clinic entrance, and she refused to leave
6 after the final police warning.

7 Now, in this shot she's not directly in
8 front of this door, but you saw the still shot from
9 Exhibit 4 where she was completely in front of this door
10 when the clinic employee was trying to get inside.
11 Heather Idoni joined this conspiracy early. She
12 participated in its purpose, blockading the clinic.
13 Heather Idoni is guilty on both counts.

14 Defendant Vaughn is also guilty on both
15 counts. He came from Centerville, Tennessee, about 90
16 minutes away from Mt. Juliet. He was an absolutely core
17 part of this stalling the police through what you know to
18 be fake negotiations. You saw Officer Watkins testify in
19 defendant Vaughn's case. Defendant Vaughn wasn't aiding
20 the police. He was stalling the police. He was
21 concealing information from the police. He was
22 manipulating the police.

23 He was part of the horseshoe that blockaded
24 the Ashbys right here in this photo, Exhibit 4A. This
25 was before there were any police to negotiate with. And

1 he was the spit guy after the arrest. He said, we came
2 into the building and we sat down at the door peacefully
3 and nonviolently. We, not they. We. Defendant Vaughn
4 joined this agreement at the latest when he showed up
5 that morning, but he clearly knew its purpose and he
6 carried out that purpose during the blockade.

7 Take a look at the first few seconds of
8 Government's Exhibit 17 showing defendant Vaughn and
9 defendant Zastrow in the stairwell before heading into
10 the hallway to begin the blockade. Defendant Vaughn knew
11 exactly what this day was about. This video highlights
12 his important role.

13 (Playing video.)

14 One of the tactics we're employing now.
15 This is on video. It's being streamed out on the
16 Internet to stall the police. And Gallagher is telling
17 the world that he and the defendant Paul Vaughn are using
18 a tactic. Mr. Vaughn doesn't disagree. He doesn't say,
19 I thought we were just negotiating. He was there, he had
20 a key role, not just in the blockade when Melissa and
21 Nicko Ashby were in the hall, but in stalling the police
22 to keep the blockaders there for as long as possible.

23 Defendant Vaughn's and defendant Gallagher's
24 fake negotiations are what allowed this to go on for two
25 and a half hours. By 8:00 a.m. Mt. Juliet PD had over 20

1 officers presented, more than 40 sets of handcuffs, and
2 only needed five cars to transport those nine adults who
3 were determined to be arrested. But defendant Vaughn and
4 Gallagher were able to draw this out for two and a half
5 more hours with the aid of the blowfish to keep this
6 clinic closed.

7 And if defendant Vaughn had really been
8 trying to help the police, he would have been telling his
9 codefendants to leave, go protest outside, the same thing
10 the police officers were telling them. He didn't do that
11 because he was a part of this conspiracy and wanted to
12 see it succeed. Defendant Vaughn is guilty on both
13 counts.

14 Let's talk about defendant Dennis Green. He
15 was in touch with Heather Idoni before the blockade,
16 confirmed as of February 14, '21. He traveled from
17 Virginia for it. He brought his minor children to
18 blockade. He attended the planning meeting. He was a
19 videographer, and he was a blockader of Sergeant
20 Schneider and the patient he escorted.

21 He refused to leave after the final police
22 warning. You see him here, cell phone camera in hand,
23 some sort of body camera on his shirt. He joined this
24 agreement knowing its purpose, and he carried out that
25 purpose during the blockade.

1 Remember Exhibit 14 with his Facebook post,
2 a few months after the blockade that Coleman Boyd
3 reposted. We sat down in front of the door. Our
4 intention was not to protest, but rather to interpose
5 ourselves between the baby and the person hired to kill
6 them. Defendant Green's intent is no mystery. It was
7 not to protest, it was to sit in front of doors and block
8 people from getting reproductive healthcare. Defendant
9 Green is guilty on both counts.

10 Remember this clip. Defendant Green telling
11 Caroline Davis that he didn't see Caroline Davis's signal
12 that a patient had arrived.

13 (Playing video.)

14 He saw Coleman Boyd's signal, the
15 livestream. Folks, signals are about coordination.
16 Coordination is part of making an agreement, and an
17 agreement to commit a crime is a conspiracy.

18 Let's talk about defendant Chester
19 Gallagher. Mr. Gallagher hatched this plan with
20 defendant Zastrow. He recruited and coordinated folks to
21 attend, including defendants Boyd, Green, Zastrow, Idoni
22 and many others. He led the planning meeting in the
23 park. He mentored Paul Vaughn, teaching him how to
24 manipulate the police, to maximize the effectiveness of
25 the blockade.

1 Again, he's using the recordings of these
2 criminal acts to recruit and train others to commit the
3 very same crimes that he and the other defendants were
4 committing that day. He refused to leave after the final
5 police warning and had to be removed. He played a key
6 role as a planner. Remember his Google account search
7 histories in the weeks prior, the FACE Act charged in
8 Count Two, Tennessee medical license lookups and
9 researching the Mt. Juliet jail. Defendant Gallagher is
10 guilty on both counts.

11 (Playing video.)

12 Now, Mr. Gallagher's attorney talked to you
13 in her opening statement about interposition and the idea
14 that to do that a rescuer needs to get close to that
15 person during this time of need and knows that sometimes
16 that means you're getting close to the door of the
17 clinic. Framing this as just getting close to a clinic
18 door because you're trying to talk to people falls flat
19 when Mr. Gallagher records this statement on his own cell
20 phone video.

21 (Playing video.)

22 We have two doors to block. That's not
23 happening to just get close to doors. He says two doors
24 to block. Blocking doors is about interfering with
25 access to that clinic, completely blockading access to

1 this clinic. In this video you see defendant Green,
2 defendant Zastrow, defendant Vaughn and Caroline Davis.
3 And you know from Ms. Davis's testimony that defendant
4 Heather Idoni is back to the left of this video frame.
5 Think about all the roles that these defendants played.

6 Now think about Caroline Davis, the
7 defendant who pleaded guilty to blockading that clinic
8 and conspiring to do so. What was her role? She rode
9 down from Michigan. She held people's cell phones. She
10 blocked doors. She refused to leave. She had to be
11 arrested. She wasn't a planner or a leader. She was a
12 follower. And yet she took responsibility for breaking
13 the law and told you what happened.

14 On March 5, 2021, these defendants broke the
15 law. This was not a protest. The defendants explicitly
16 stated that over and over again. It was not sidewalk
17 counseling. It was not lawful conduct. It was a human
18 blockade agreed to and carried out by these six
19 defendants and others, and they did it all over the
20 Internet, seeking an audience as they filmed and even
21 livestreamed videos of their defiance of the law.

22 And now in this court of law they ask you,
23 the jury, to overlook their crimes. Do not. Because the
24 evidence in this case is simply overwhelming and because
25 the laws of this country mean something. We are here

1 because these defendants believe they are above the law,
2 that they can oppress and intimidate by imposing their
3 will on others and they can violate the law without being
4 held accountable.

5 People don't get to break the law without
6 consequence simply because they think they are justified.
7 Our laws would have no meaning if such a loophole
8 existed. This loophole cannot exist and it does not
9 exist. This case is not about the defendants' beliefs.
10 It is not about the defendants' beliefs. They are
11 beliefs that so many Americans share. They are beliefs
12 that have led to changes in laws, changes in statehouses
13 and courthouses. There are lawful ways to effect change.
14 This was not lawful.

15 This case is about the defendants' actions.
16 Unlawful actions on March 5 and in the weeks prior to
17 through their conspiracy and blockade, these six
18 defendants imposed their wills on the patients and clinic
19 staff while tying up multiple shifts of officers. The
20 defendants may have defied the law, but here in this
21 courtroom you have taken an oath to faithfully apply the
22 law.

23 And when you follow your oath, when you're
24 guided by the law as the judge will provide to you and
25 when you consider the facts that are so clearly

1 established in this case, you will reach the only verdict
2 that is supported by the law and the evidence and find
3 the defendant, all of them, guilty on both counts. Thank
4 you.

5 THE COURT: Thank you, Mr. Boynton.

6 Ms. Bell.

7 DEFENDANT GALLAGHER CLOSING ARGUMENT

8 MS. BELL: Yes, Your Honor. I may need just
9 a second to switch the computer setup.

10 I'm going to sort of start today where I
11 started before.

12 THE COURT: Ms. Bell, I think you're going
13 to have to be at that microphone.

14 MS. BELL: Thank you. Start today where I
15 started before. Thank you. My client's intention at the
16 March 5 rescue in the hallways of the carafem was a
17 peaceful, nonviolent interposition. Everything that
18 happened that day was peaceful, was nonviolent. There
19 was no damage to property, no injury to other people.

20 There was no agreement, no criminal
21 agreement that day to threaten anyone, to oppress anyone,
22 to intimidate anyone in their exercise of a right
23 guaranteed by the United States. The goal that day, what
24 my client intended was that offer of help.

25 And granted, it's unsolicited, unwelcome, a

1 little bit of a nuisance, arguably inappropriate, but
2 that's the reason these people were there, to offer that
3 help consistent with their religious beliefs, their
4 spiritual beliefs.

5 Now, before I go any further, I think it
6 would be -- I would be remiss on behalf of Mr. Gallagher
7 and on behalf of me not to thank you for your time, your
8 patience, your attention to this case. I know this
9 probably started for many of you back that first day we
10 came on the 8th and filled out those juror
11 questionnaires. That was 20 days ago.

12 So I know that to some degree that has
13 probably been an inconvenience, maybe has disrupted your
14 lives and the times that you -- the time that you spend
15 with your family, your friends, your loved ones. I want
16 you to know that I do truly appreciate your time and
17 attention in this case and wanted to make sure that you
18 knew that on behalf of me and Mr. Gallagher.

19 Now, the government even cited to this
20 exhibit that they introduced. And this is from Dennis
21 Green's Facebook, and I do think it sums up what happened
22 that day. He says: A group of Jesus followers went into
23 a building in Mt. Juliet. They sat down in front of the
24 door and they prayed and worshiped. Their intention was
25 not to protest, but to interpose themselves between a

1 baby and the clinic. After about three hours, which gave
2 counselors time to share truth and offer help to moms,
3 they were arrested and taken to jail.

4 I think there are a lot of things we don't
5 dispute about that day. And like I said in my opening,
6 this case is about rescue, interposition, and that idea
7 of, as part of those rescuing and interposition, they
8 risk arrest and they know that. There was a lot of talk
9 about that.

10 Rescue, again, that's saving the unborn to
11 these people. Interposition is that timely offer of help
12 to a pregnant woman or a couple. It's getting between
13 that pregnant woman at the clinic at a crucial time. Not
14 saying it's the best thing to do, not saying it's
15 welcome, but it's a crucial time where someone is facing
16 a difficult decision which cannot be taken back. And the
17 methods that these people exercise, my client, as part of
18 his rescuing, is to get in that path to offer that help.
19 This is organized and peaceful. And it is organized. It
20 is organized so that it is the opposite of oppressive,
21 threatening, intimidating; keeping the tone low.

22 The delay to interpose does allow the
23 rescuers to meet or cross paths with more women, more
24 pregnant people, more couples that are maybe facing this
25 difficult decision. And one thing Caroline Davis did

1 say, and to bring more attention to the cause. I forget
2 exactly what the words were, but maybe make it more of a
3 spectacle. It will generate more attention. People will
4 see what is happening. They'll tap into this issue.

5 Do these people risk arrest by doing this?
6 Yes, they know. They're asked by the police to leave;
7 they don't leave. They are risking arrest; they talk
8 about risking arrest. They go in with their eyes wide
9 open.

10 I want to talk, though, again, about what
11 Ms. Davis said, bringing the cause into the light is what
12 my notes have. You all probably have your own
13 recollection, so if it's not exactly right, I apologize.
14 But these rescuers are recording what they're doing.
15 They're livestreaming it. I don't know if people
16 committing conspiracies that they believe are federal
17 crimes are livestreaming what they're doing.

18 But they're putting it out there for people
19 to see. They're inviting people to come join them.
20 There are large groups in this case of pro-life advocates
21 both in and outside the clinic. They're bringing
22 attention to the cause. They talk to the press, they
23 post on Facebook during and after.

24 They intend to generate as much publicity as
25 possible to rally supporters and draw attention to their

1 cause while they're also engaging in that act of
2 interposition.

3 As to my client, as I said in the opening,
4 he's involved in pro-life ministry. Rally and rescue. I
5 think we heard Caroline Davis say he was a rescuer from
6 back in the day might have been exactly the words she
7 used. He lives in Nashville area, so it makes sense that
8 he would be helping organize this rally, worship and
9 rescue. And there were other people, they were getting
10 together and praying, they were going out to Planned
11 Parenthood and protesting. They were eating together.
12 They were talking together. They were sharing their
13 similar beliefs. And making sure that if they were going
14 to do a rescue, it was peaceful, nonviolent.

15 Mr. Gallagher at the rescue, he talked to
16 the police in his role as a minister and as a former law
17 enforcement officer. I submit that makes sense. He
18 spoke to the cameras. I don't think he was disputing
19 that what he was doing at the rescue was instructional to
20 some degree.

21 He said they were blocking doors. We'll
22 talk about that in the context of the FACE Act in a
23 minute, but the word in the FACE Act is not blocking.
24 It's obstructing. Obstruction. So we'll talk about that
25 in a second.

1 He said this is not a protest, and I think
2 Caroline Davis even agreed, a rescue is not necessarily a
3 protest. Sure, it could fall under the same umbrella,
4 but there's something a little bit different about that.
5 The aim is rescuing the unborn.

6 Mr. Gallagher helped arrange for orderly
7 arrest. And this orderly arrest, I think, is very
8 important because if we're there to delay and delay and
9 delay and delay, that did not happen on this day. These
10 people got there at 7:45 in the morning. They're done by
11 10:30.

12 And when they were taken into custody,
13 nobody went limp, nobody resisted arrest, nobody tried to
14 make that process last longer. It was very uniform, very
15 quick, they marched right out. This was a peaceful,
16 nonviolent, no threats, no oppression, no intimidation.
17 The goal of what happened -- or excuse me.

18 Just to put Government Exhibit 13 up,
19 Mr. Gallagher did help promote the rescue. And I wanted
20 everybody to take a look at this and see how he promoted
21 the rally in Middle Tennessee, that that is in the
22 government's discovery. And Mr. Boynton went through the
23 various texts and various communications between people.
24 I don't think anyone disputes that any of that happened.
25 Those were there.

1 Mr. Gallagher's from here. He's going to
2 arrange to set up that rescue, to set up that worship, to
3 make sure that everyone who's coming and wants to
4 participate can come and be part of things. But in a way
5 that is orderly, peaceful, nonviolent.

6 This was the intent that day, to interpose,
7 to get in a place where that message could be delivered
8 to someone who was contemplating making a decision they
9 couldn't take back. And you'll notice in that video,
10 it's Exhibit No. 4, that these two young women who are
11 with the rescuers approach Ms. Ashby. They step back, no
12 one else steps up.

13 And you can hear in that video that they're
14 offering help. They're asking her about her child. Or
15 is she here for a procedure. Babies are a gift from God,
16 that sort of thing. You'll also remember what Caroline
17 Davis said, and you can see these women have things in
18 their hands. Those were resource sheets. These rescuers
19 are handing out resources so people know there is another
20 way before you make this final decision. Please hear us.

21 And sometimes when we're confronted with a
22 decision that's really, really difficult, it might be
23 difficult to hear other sides. That might be something
24 you don't want to hear. You might be in a position
25 facing a difficult decision of fight or flight. It's

1 pretty normal.

2 But that's also when maybe you need to hear
3 that information the most. Even if it's unsolicited,
4 even if it's unwelcome, that might be when you need to
5 hear it. I'd submit to you that these rescuers are aware
6 of that. So we see that and we see the clinic worker
7 coming up. We see Ms. Ashby in that video told to go to
8 the parking lot and she does, and she comes back later
9 that day for her appointment.

10 I want to stop briefly and just talk about
11 the clinic worker, Ms. Flowers, and her testimony and why
12 I think that it's important, especially on this issue of
13 blockade, obstructing access. When Ms. Ashby gets to the
14 clinic that day -- and I would submit when you see her on
15 the video and compare her with the person that was here
16 testifying in court, we saw two very, very different
17 people for whatever reason.

18 But when she gets to the clinic that day,
19 Ms. Ashby -- excuse me, Ms. Flowers is notified that
20 people are up in the hallway. And her response is what
21 the F, and she marches on up there, where she says -- when
22 she gets up there, she takes her phone out and she starts
23 to film. She says it's because she also sees Mr. Boyd
24 filming, but also she wants to have a record of who is in
25 the hallway, right.

1 She says there are approximately 20 people
2 in the hallway. These are the rescuers. She goes down,
3 takes out her key card. Nobody blocks her. She swipes
4 that card and she walks right into the clinic. 20
5 rescuers in that hallway, undisputed, nobody stops her
6 from going in.

7 She goes inside and then, contrary to
8 policy, she decides she's going to go back out and engage
9 them some more, gets her camera working and comes out and
10 starts filming before she's -- as she's opening that door
11 you can see.

12 She goes, she approaches these two young
13 women who are speaking with Ms. Ashby. She tells
14 Ms. Ashby to go downstairs, Ashby's husband comes, you've
15 all seen that, and they leave. They never get denied
16 access by anybody. But then Ms. Flowers turns around
17 with that cell phone going, waving it around at the
18 rescuers in the hallway, and you can hear in her voice
19 her disdain and her disgust, her dislike of these people.
20 Her judgment: Superpro-life, no masks. She is ready to
21 get into it with them.

22 I would submit when she types the what the F
23 she's ready to get into it with them. She violates
24 policy, she marches right back out. She's mad, she's
25 angry. And I'm not saying that she's wrong to be mad,

1 angry, frustrated, any of those things it would be
2 annoying to come to work and find that. That's fair.

3 And she confronts and runs into, as she's
4 filming, Mr. Zastrow. You don't hear him yell at her.
5 He stays down, cowering. He's a big guy. He
6 deescalates. He doesn't threaten, he doesn't oppress, he
7 doesn't intimidate. He does the opposite. He keeps the
8 volume, the temperament, the mood low. She's calling the
9 police. Okay. He's trespassing. Okay. And she leaves.

10 So let's talk about Caroline Davis. She
11 came in. And the judge is going to instruct you about
12 witness credibility. And that witness credibility
13 instruction is going to say something along the lines
14 of -- and please rely on the judge's instruction, not my
15 memory of it -- but you can accept some of the testimony,
16 you can reject some, you can reject it all.

17 And then the instruction will go through all
18 these different factors you can look at. One of them is
19 how good was the witness's memory. And I'd ask you-all
20 to remember, Caroline Davis's memory was much, much
21 better about things that happened a long time ago when
22 the government was asking her about it than when I asked
23 her about things that happened weeks ago. Her tone, her
24 demeanor completely changed depending on what table the
25 questioner came from. So I'd ask you to keep that in

1 mind.

2 She does have two plea agreements. She is a
3 cooperator. And remember what she said. She sought out
4 the government to cooperate. These indictments were
5 psyching her out. She was struggling with being charged
6 in federal court. This was all of a sudden a much bigger
7 deal than what she had anticipated. Also, keep in mind
8 that these people were family to her: She was really
9 close to them, according to her, at one time. I couldn't
10 see any of it. Could you? Did she seem like she was
11 still close with these people? They seem like her enemy
12 at this point.

13 So I'm going to ask when you consider
14 Ms. Davis's testimony, and I'm going to talk about it
15 some more in a minute, you'll also consider another
16 instruction that the judge is going to give you and it's
17 the reasonable doubt instruction.

18 And part of that instruction is something
19 along these lines: Proof upon -- proof beyond a
20 reasonable doubt is proof that's so convincing, so
21 convincing that you would not hesitate in making the most
22 important decisions of your life based upon that proof.
23 And so I'd ask you to keep that statement in mind when
24 you assess Ms. Caroline Davis and the weight that you
25 want to give her testimony.

1 So what does she add in this case? Why does
2 the government call Ms. Davis? Well, she helps establish
3 an agreement for the government that Caroline Davis
4 believes is criminal. She says these are people who talk
5 about the FACE Act. They know about the FACE Act.
6 They're aware about the FACE Act. I think she even said
7 with respect to my client, Mr. Gallagher, who knows about
8 regulations from back in the day, that when she first met
9 him in 2020 in Michigan, he was talking about the FACE
10 Act.

11 Now, what doesn't make sense to me is if he
12 was so knowledgeable about the FACE Act back in Michigan
13 in 2020 why he'd be Googling it. I submit to you she's
14 probably not telling you the truth about what she heard
15 people saying back in Michigan.

16 One thing Ms. Davis did say was there was
17 not a verbal agreement whatsoever to injure, oppress,
18 threaten or intimidate. And I think Ms. Davis was pretty
19 clear on cross-examination from Mr. Parris that she said
20 nobody ever said anything about intimidation. She then
21 tried to opine about how she would have felt and things
22 like that, but I believe that testimony was nobody ever
23 talked about intimidating anybody.

24 She does provide the government with an
25 expert on rescue. And I'd say give that the weight that

1 you want to give it because she's been to three or four,
2 by my count. And she's an expert at 24 or 25 years old
3 on the topic of rescue.

4 And then the last area of testimony that I'd
5 ask you to recall, remember and assess is that Caroline
6 Davis said that, no matter what, she wasn't moving from
7 in front of that door, that that was her intent. Her
8 intent that day. She wasn't going to move. And I think
9 she said that, I would submit to you, so that you'd think
10 that was everybody's intent.

11 But out of the other thing that we heard
12 from her also was people pray on it. They decide how
13 much of a role they're going to take. They don't
14 necessarily know in advance. They wait to hear from God
15 or get a message or pray or whatever their faith kind of
16 takes them to do. So that was one other thing Caroline
17 Davis said.

18 The other thing she said, though, about
19 blocking was she also was not going to leave that day
20 unless physically removed by the police. That's what she
21 said. Nobody was physically removed by the police. They
22 were marched out. They voluntarily stood up.

23 The police did ask them to leave a bunch of
24 times and they didn't do it right away. But when they
25 got up, they got up peacefully. Nobody had to physically

1 remove them. They very peacefully and orderly walked
2 out.

3 And then the other thing she said about
4 blocking, not moving, obstructing, that sort of thing, is
5 she didn't care, she was not moving even if somebody had
6 to hurt her. And that didn't happen either. So that's
7 Caroline Davis.

8 Let's talk about the conspiracy briefly.
9 I'm sure the other defendants' counsel will talk to you
10 about it too. I will agree, there was an agreement that
11 day. There was an agreement to rescue. There was an
12 agreement to engage in the act of interposition, but it
13 has to be an unlawful agreement. And what happened that
14 day was, as per Dennis Green, the intent was to share the
15 truth and offer help to moms.

16 Their roles were aimed at maintaining order,
17 running the rescue smoothly, keeping the peace, avoiding
18 personal or property damage. The rescuers were peaceful
19 and nonviolent the entire time. So when we think about
20 what was going on there, they were singing, they were
21 praying, they were reading Bibles.

22 The conspiracy count requires that the
23 objective of that conspiracy be a criminal one. And in
24 this particular case it's the intent to specifically
25 threaten, oppress and intimidate someone in the exercise

1 of a right protected by the law.

2 Threaten, oppress and intimidate. The
3 hallway was full of children, people singing, people
4 quoting Bible verses. That's what was happening that
5 day. They were unwelcome. They were annoying. They
6 were a nuisance. They were all those things, but that's
7 not threatening, oppressing, intimidating. They were
8 praying and doing as called upon by God, according to
9 Ms. Davis. Zastrow humbly refused to move from the door.
10 He was defusing a tense situation.

11 The government has showed you the video
12 where the officer's coming down, Officer Schneider, part
13 the seas, part the seas. They did move. He's pushing
14 through them, fair enough. Fair enough. They're trying
15 to interpose. They're slowing down his roll down the
16 hall with the lady. You hear them. Why are you coming
17 here? They're wanting that opportunity to engage. And,
18 again, it's unsolicited. It's a nuisance, it's
19 unwelcome, but that's what's happening. The clinic
20 reopened that afternoon. Ms. Ashby had her appointment.

21 As to Count Two, the FACE Act, was there an
22 obstruction, was it impassable or unreasonably difficult
23 to go down the hallway? I'd submit to you no. An
24 approach that's uncomfortable or emotionally difficult,
25 the Judge will instruct you, is not an obstruction.

1 And due to that obstruction was there an
2 interference or attempted interference with someone's
3 freedom of movement? You have to find the obstruction
4 first. I'd submit you don't even get to the next one.
5 So that's your FACE Act allegation.

6 What happened that day was rescue and
7 interposition, which are timely acts, last-minute effort
8 to persuade someone not to terminate their pregnancy.
9 This happens under emotional and difficult circumstances,
10 and at the carafem it's particularly hard for those
11 trying to get their message across, their unsolicited
12 message across because of the location of the clinic.

13 So that offer of help cannot effectively
14 happen outdoors. It occurs in the hallway to identify
15 potential patients. Their environment the entire time is
16 one of prayer, worship and singing hymns. This is all
17 happening in a peaceful, nonthreatening, nonintimidating
18 but possibly uncomfortable way for both the patients and
19 the workers.

20 I would submit to you that the March 5
21 rescue at the carafem was a peaceful, nonviolent offense
22 without threats, oppression or intimidation. Without
23 threats, oppression or intimidation. And as a result my
24 client, Mr. Gallagher, is not guilty of the conspiracy or
25 the FACE Act violation. Thank you.

1 THE COURT: Thank you, Ms. Bell.

2 Mr. Parris.

3 DEFENDANT ZASTROW CLOSING ARGUMENT

4 MR. PARRIS: Good afternoon. I think
5 Ms. Bell basically covered the whole thing, so I'm going
6 to be short. But I do want to remind you that six days
7 ago I asked you to remember four words and I asked you to
8 write them down: Injure, oppress, threaten, intimidate.
9 You can forget injure now. That's off the table.

10 So we're down to three. Oppression, threats
11 or intimidation. I'm going to start with Count Two, I'm
12 going to work my way backward. Count Two, by force,
13 threat of force or physical obstruction intentionally
14 intimidates or interferes with the person from obtaining
15 reproductive health services.

16 That's not exactly -- that's not the entire
17 law, and the Judge will instruct that to you, but that's
18 generally the idea. I'm not going to walk through the
19 proof with you again. That's already been done twice.
20 That is -- what I want to point out and what I want to
21 emphasize is Count Two is the act, what happened out
22 there, okay.

23 Count One strictly is involved with what the
24 agreement was. And I think we all agree, I don't think
25 anybody -- well, I take that back. Mr. Zastrow doesn't

1 contest that there was some agreement, but the agreement
2 was always just to save lives. And certainly never by --
3 through oppression, threats or intimidation. By the
4 opposite, by doing the opposite.

5 Officer Schneider testified that at that --
6 and you saw his testimony, you saw what he did when he
7 went down the hall. He testified that they ended up
8 being charged with criminal trespass.

9 Sarah Flowers, when I cross-examined Sarah
10 Flowers, I asked her, did anybody threaten you? No. Did
11 Mr. Zastrow, which they just showed you the picture of
12 again, cowed down in the fetal position almost in the
13 floor, did he threaten you? No. Did anyone curse at
14 you? No. Did he curse at you? No. Was there any
15 physical contact by anyone? No. Did he physically
16 contact you? No. Was there any yelling or raised voices
17 by anyone or Mr. Zastrow? No. Were there any weapons?
18 No. Were you aggravated? Yes. Were you annoyed? Maybe
19 frustrated. Were you angry? Yes, I was angry.

20 She also testified that she was panicked.
21 We all saw that video, we all heard her tone. There was
22 no panic in that voice. And, again, as already been
23 pointed out, she went through the hall, through the
24 people into the office, then came back out of the office
25 to video. There was no fear, no intimidation, no threat,

1 no oppression at all.

2 Now, again, I say this with a little bit of
3 trepidation because I don't want to confuse the issue.
4 We're talking about what the agreement was. Now I'm
5 actually talking about what happened, but you can infer
6 from what actually did happen as to what the agreement
7 was. Because further testimony from Caroline Davis was
8 that it was well-planned, and it was well-planned for
9 that very purpose.

10 She made -- one of her most telling
11 statements to me was that she had heard about rescues
12 that had gone bad. And when asked, well, what does gone
13 bad mean? That's when she testified, that's when we
14 start getting beat on. That's when violence starts.
15 That's when things escalate.

16 And so the agreement by these men was to
17 keep all of that from happening. Whatever you do, don't
18 injure anybody, don't touch anybody, don't threaten --
19 don't be threatening. Don't be intimidating.

20 Stand up, Cal. Thank you. Now, you can see
21 me. I'm a pretty good-sized man. He's every bit of me
22 and more. And what did he choose to do? Literally make
23 himself as small as he could, not make eye contact, no,
24 ma'am, yes, ma'am, I understand, ma'am, yes, ma'am.

25 You can't be more docile than he was. When

1 that officer pushed through him, he just let him throw
2 him into the wall. If he wanted to resist that, I
3 promise you he could have resisted that.

4 So this is the opposite. What they did was
5 the opposite. And the fact that it was peaceful and the
6 fact that there was no oppression, no intimidation, no
7 threats, it's no accident because it was well planned
8 just for that purpose. So this is the opposite.

9 What the planning was. Officer Watkins
10 deserves some mention, and that's because he chose his
11 words wisely when asked what he saw when he got there.
12 He testified that when he got the call, he expected
13 something totally different when he got there.

14 I don't know anything about Westboro Baptist
15 Church, but he gave you an idea of what he expected and
16 it wasn't going to be pretty. And when asked to describe
17 it, he thought and he said, what I saw was something very
18 quiet in personality. At most I heard singing. And you
19 heard it. They're singing hymns. They're holding
20 Bibles.

21 Even if you think there's something
22 inherently intimidating about that many people in that
23 space -- and Caroline Davis said the word intimidation I
24 think once, maybe twice later on into her testimony when
25 she was talking about more is better. Even if you think

1 that, there is no evidence -- and, as a matter of fact,
2 the evidence is the exact opposite that that's what the
3 agreement was. The only agreement that these people ever
4 made was to try and save lives.

5 Now, as Ms. Bell stated, it may have been
6 irritating, it may have been aggravating, it may have
7 been a nuisance, may have been distasteful to some of
8 you, but what it wasn't was illegal. The agreement,
9 Count One, there was no intent to injure, oppress or
10 threaten. And that's what Count One is all about. Don't
11 mix it up with Count Two. Count Two's about the act.
12 Count One is merely what is our agreement. And their
13 agreement was to save lives --

14 MR. BOYNTON: Objection, Your Honor.

15 MR. PARRIS: For?

16 THE COURT: Overruled.

17 MR. PARRIS: Was to save lives in the
18 quietest, safest, least injurious way to do it. And they
19 spent a lot of time working on that so that there wasn't
20 any problems. And there wasn't. And that's the evidence
21 I want you to take from what actually happened when
22 you're trying to decide for sure what was the -- what was
23 the agreement because the law is very specific, first
24 there has to be an agreement.

25 And second that the aim of the agreement was

1 to oppress, threaten or intimidate. Again, we don't have
2 to worry about injury, that's out the window now. A
3 person in the free exercise or enjoyment of any right or
4 privilege secured to that person by the laws of the
5 United States. I submit to you there's no way that you
6 could find that any of them, that the agreement was to
7 oppress, threaten or intimidate any of those people and
8 you have to find them not guilty. Thank you.

9 THE COURT: Thank you, Mr. Parris.

10 Mr. Haymaker.

11 DEFENDANT BOYD CLOSING ARGUMENT

12 MR. HAYMAKER: Afternoon. I appreciate your
13 patience. I'm going to try not to repeat what other
14 counsel have said. I'm having to revise it as they speak
15 because I don't want to be too repetitive. I'm always
16 nervous about a closing argument and the reason, one of
17 the reasons, is because the government gets two bites at
18 the apple. We only get one.

19 So not only do we have to respond to some
20 degree to what they argue, we have to anticipate what
21 they're going to argue when they get back up here. And
22 this is the last time I'm going to be able to talk to
23 you, so I'm going to try and not repeat myself or repeat
24 what other counsel have said, but I have to be thorough.

25 Of course, we're at a disadvantage because

1 when there's a disagreement, you always want the last
2 word. And they get the last word.

3 There are two counts in this case.
4 Count One is a criminal conspiracy against rights.
5 Count Two is a FACE Act violation. Now, what's
6 interesting about these two counts is they seem alike.
7 They seem similar. It's easy to sort of jump to the
8 conclusion that, well, if somebody's guilty of one, they
9 must be guilty of the other. And nothing could be
10 further from the truth. They have different elements,
11 they have different requirements under the law and they
12 have to be considered separately.

13 In this case a violation of the FACE Act,
14 which is Count Two, is about what happened on March 5,
15 2021, in Mt. Juliet. Count One, a criminal conspiracy
16 against rights, is a serious charge, and it is about what
17 individual defendants agreed to do before March 5 and
18 leading up to March 5.

19 As you consider the evidence, it is really
20 important that you keep these two counts separate in your
21 mind and recognize that Count Two is about what happened
22 that day, the videotapes you've seen and so forth.
23 Count One is about what happened, the nature of the
24 treatment, what happened leading up to March the 5th.

25 I'm going to start with Count Two, which is

1 the FACE Act violation. And as we look at the FACE Act
2 violation, again, things that happened on March the 5th,
3 2021, in Mt. Juliet, that's going to lead me to the
4 question that I asked in the beginning of this case.

5 Myself and Steve Thornton represent
6 Dr. Coleman Boyd, who has been sitting behind me. And in
7 my opening I asked the question, what did Coleman Boyd
8 do? So let's talk about what he did in this case. He
9 arrived on the second floor of the building at about
10 7:47 a.m. He stepped off the elevator, he stood in the
11 corner at the end of the hallway. He began to livestream
12 what was going on, and on the livestream he was asking
13 people to pray.

14 He was as far away on the floor from the
15 clinic as he could be and still have it on a livestream.
16 As a matter of fact, he was so far away that there was
17 actually another business in between him and the clinic.
18 He stood out of the way.

19 A woman came off the elevator, accompanied
20 by her boyfriend, and he engaged in a conversation with
21 her. He spoke to her briefly about regarding a bathroom,
22 where a bathroom was. He asked her if she was looking
23 for the abortion mill, and she ignored him. She didn't
24 respond. He then asked if he could talk to her, and she
25 didn't respond. He then communicated with his daughter,

1 who was a teenager, and communicated with her so she
2 could go speak with the woman.

3 The woman walked down the hall towards the
4 clinic, and as she was down there on the Facebook
5 livestream, he asked people to pray for her. He did not
6 follow her. At some point the clinic worker came up on
7 the woman and the boyfriend came out of the bathroom, and
8 the clinic worker told them to leave. And as they walked
9 out towards the elevator, Coleman Boyd is still standing
10 at the end of the hallway. And Coleman Boyd says, in a
11 calm voice, sir, that baby is a gift from God, a blessing
12 from God. They get on the elevator.

13 Coleman Boyd then calls someone else,
14 presumably someone downstairs, and says that they're
15 coming down and suggests that whoever he's talking to
16 might want to speak to them. And he says, when you speak
17 to him, referring to the man, speak to him with love.

18 The government played that video for you a
19 minute ago. I thought it was interesting that they left
20 off the last three or four seconds, when he says to the
21 person downstairs, speak to the man with love.

22 The couple were on the floor for about four,
23 five minutes at the most. During all that time, Coleman
24 Boyd never raised his voice. He never blocked anyone.
25 He never took any sort of aggressive action. He never

1 took any sort of aggressive posture.

2 This entire episode took two and a half to
3 three hours from start to finish, from the point when
4 people arrived to the point when people were arrested and
5 taken to jail. Coleman Boyd arrived at 7:47, and at 12
6 minutes after 8:00, he left. He was there for 25
7 minutes. The police came shortly after 8 o'clock. They
8 told everyone to leave, and Coleman Boyd left.

9 In order for the government to prove that
10 Coleman Boyd is guilty of a FACE act violation, they have
11 to show he obstructed an entrance. That is because
12 obstruction is the heart and soul of the -- of a FACE Act
13 violation. If there's no obstruction, there's no
14 violation. There is no evidence that Coleman Boyd did
15 any obstruction. You can't conclude that, especially
16 beyond a reasonable doubt.

17 Now, the Judge is going to instruct you that
18 making the approach to a health facility emotionally
19 difficult or unpleasant is not enough to create an
20 obstruction under the FACE Act. Now, because they can't
21 prove that he created an obstruction, they have to
22 proceed on an aiding and abetting theory, so I want to
23 talk to you about that.

24 To put it in a nutshell, the Judge is going
25 to instruct you that aiding and abetting is to help or

1 encourage someone else to commit a crime. The Judge is
2 going to tell you that proof that a person is present
3 when a crime is committed and that he knew about it is
4 not enough to find somebody as an aider and abettor. An
5 aider and abettor has to actually help or encourage the
6 criminal conduct. So the question becomes, how did
7 Coleman Boyd help an obstruction. So I'm going to go
8 through that. Again, I have to react not only to what
9 they've argued but what I anticipate they might argue.

10 So what did Coleman Boyd do and how did he
11 help? First, he livestreamed. Did that help the
12 obstruction? You'll note that on the livestream, it
13 appears as if he angled the camera away from the woman
14 that he was -- and you be the judge, you can look at the
15 video. But it does not -- it appears as if he's trying
16 not to show her face on the livestream.

17 There's a suggestion that on the livestream
18 he is somehow communicating with others and telling them
19 what to do on the livestream, but if you listen to what's
20 on the livestream, he's asking people to pray for this
21 woman.

22 And he's describing generally what's going
23 on. It's not as if he's on the livestream saying, hey,
24 go here, go there, if anybody's listening to this
25 livestream, we need more people up here or what have you.

1 He's not doing that.

2 It's also important to note that if you look
3 at the video where he's standing, as he's looking down
4 the hallway, there are people standing. Now, there may
5 be people sitting down there as well. But from where
6 he's -- where he's positioned, it looks like a bunch of
7 people standing; some, to be sure, in front of a door,
8 but people standing.

9 What else did he do? He spoke to the
10 patient. He was essentially -- and Caroline Davis said
11 this. He was essentially a sidewalk counselor, but in
12 the building. That doesn't help an obstruction. He
13 encouraged his teenager daughter to speak to the woman.
14 Well, if him speaking to the woman doesn't create an
15 obstruction, then certainly him encouraging his daughter
16 to speak to the woman doesn't create an obstruction.

17 One thing that was brought into evidence was
18 a -- it was either a text or a Facebook message, I'm not
19 sure. It's Exhibit 18. And Caroline Davis is speaking
20 with someone else or communicating with someone else
21 electronically. And part of it reads this: Not to
22 mention, as much as people are needed to block the doors,
23 people are needed on the other side of things to help
24 from outside of jail and the other parts of rescue.
25 Coleman Boyd did the bulk of the hard work when we were

1 on the inside. He was slaving away on the outside, even
2 in the middle of the night for us. We worked hard and
3 sacrificed and he sacrificed his time to do the
4 behind-the-scenes work, so praise God for people like
5 Coleman.

6 It's very clear from the terms of that that
7 what she is talking about is not what happened that day,
8 but what happened that night after people were arrested.
9 He slaved away all night. People -- when she says people
10 were inside, it's not the building they're inside. It's
11 the jail they're inside at night.

12 The Judge is going to instruct you that in
13 order for an act to be help or encouragement under aiding
14 and abetting, it has to occur before the alleged criminal
15 conduct or during the alleged criminal conduct. But it
16 can't happen after the criminal conduct -- the alleged
17 criminal conduct is over.

18 So what is in that exhibit? If it refers to
19 them being in jail and him working while they're in jail
20 that night, that can't be help. There was also testimony
21 that when Caroline Davis was arrested and the others were
22 arrested and they were taken outside, that Coleman Boyd
23 was outside and he said in a loud voice something to the
24 effect of, worthy is the lamb. And Ms. Davis took that
25 as some form of encourage. Again, that can't be help

1 with respect to aiding and abetting because that occurred
2 after any alleged criminal conduct was over with.

3 In another email or message, he asked --
4 Coleman Boyd asked Caroline if she was coming to the
5 Tennessee rescue. Caroline Davis testified about the
6 word rescue. And that's very important in this case.
7 She testified that rescue has lots of meanings. And
8 while blockades are rescues, not all rescues have
9 blockades. She said a rescue can be simply standing on a
10 sidewalk talking to people or holding a sign. So when
11 Coleman Boyd asks her if she's coming to the rescue in
12 Tennessee, there's nothing that's necessarily illegal or
13 nefarious about that inquiry.

14 What else did he do? And by the way,
15 certainly him asking her whether she's coming to the
16 rescue is not helping in an obstruction. What else did
17 he do? Well, it was insinuated that he encouraged two of
18 his teenage kids somehow in this.

19 The testimony actually was -- and it was not
20 clear exactly how she knew this, whether she was present
21 or not, but that he prayed -- being a religious man, he
22 prayed with two of his teenagers about being involved in
23 rescue and whether they were going to make a decision or
24 not to be involved in rescue. Again, rescue covers a
25 multitude of activities, some of which are illegal, but

1 most of which are not.

2 Now, if you're not a particularly religious
3 person, that may seem odd that you would pray with your
4 teenage children. However, if you are a particularly
5 religious person and you want them to make important
6 decisions for themselves, praying with them is probably a
7 pretty reasonable thing to do. But it is certainly not
8 helping or encouraging in blockading. Coleman Boyd never
9 talks about blockading. Coleman Boyd, to the extent he
10 talks about anything in this case, it's about rescue.

11 And the other thing -- I guess there's two
12 more things I think they would claim he was helping an
13 obstruction. There was a suggestion that he suggested
14 that people use medical equipment to blend in. One thing
15 that was mentioned were masks, another thing that was
16 mentioned was a wheelchair, and I believe there was some
17 reference to crutches.

18 I think Coleman Boyd, a physician,
19 suggesting that people wear masks in March of 2021,
20 especially when most buildings either suggested it or
21 required it, I don't think that really has anything to do
22 with whether or not they were engaged in a rescue.

23 Eva Edl was one of the women in the hallway.
24 Eva Edl was in her mid to late 80s. And there was
25 testimony that she was able to get up out of the

1 wheelchair and get in a police car with no problem.
2 Anybody who has known somebody in their mid to late 80s
3 understands the fact that most people that age, if they
4 can walk perfectly fine -- a lot of folks that age can --
5 but if they're going to be on their feet for any period
6 of time or sitting for any period of time, it is not
7 uncommon for somebody, even though they can walk
8 perfectly fine, to need the assistance of a wheelchair.
9 So the fact that he suggested she have a wheelchair, that
10 didn't aid in the obstruction.

11 And then lastly there was a mention of
12 crutches, and that came from Caroline Davis. There's a
13 lot of video in this case. It looks like everything was
14 videoed, pretty much. I didn't see any crutches, so I
15 honestly don't know what to make of that. The point is,
16 none of that helped in the obstruction.

17 And lastly there's been a suggestion that
18 Coleman Boyd was in a position to where he could somehow
19 signal to the folks down the hall that someone was
20 getting off the elevator. You-all have seen enough video
21 that you're pretty familiar with the layout of this
22 floor. When someone gets off the elevator, to their left
23 is Coleman Boyd. They take two steps to the left, and
24 they're in the hallway. Anybody down the hallway that's
25 looking can see somebody come around the corner.

1 If Coleman Boyd was going to signal -- and
2 other than Caroline Davis saying that's what he was there
3 to do or she thought he was there to do that -- it
4 wouldn't give anybody down the hall any forewarning that
5 somebody's coming. By the time he's signaled them,
6 they'd already be around the corner and on their way
7 down. So that really doesn't make sense. So in short
8 they haven't proven that Coleman Boyd helped in the
9 obstruction, and they haven't proved that he encouraged
10 anybody else to help in the obstruction. And they
11 certainly haven't proved it beyond a reasonable doubt.

12 And really the salient question is this:
13 Did Coleman Boyd help or encourage? And the way you know
14 he didn't is this question. If Coleman Boyd was not even
15 there that day, would anything have turned out different?
16 The answer is no. He didn't do anything that helped the
17 obstruction.

18 Coleman Boyd was not there to obstruct. He
19 was there to persuade. Now, you may not agree about his
20 methods of persuasion. That's really not the question.
21 What was his motivation? He was there to persuade, not
22 to obstruct. Everything he did on that floor was
23 designed to persuade and not obstruct. Where he stood,
24 his peaceful behavior, the conversation he engaged in,
25 the conversation he asked his daughter to engage in, what

1 he says to the boyfriend as they're exiting in the
2 elevator, and when he tells the other person, when he
3 suggests to them to go speak to the gentleman and to
4 speak with him in love.

5 It raises an interesting question. If
6 Coleman Boyd was there to obstruct and was there to help
7 others obstruct and this couple, who he thought was there
8 to terminate a pregnancy, they were turned away and they
9 were on their way out of the building and his purpose is
10 to obstruct, why would he talk to them? His job is kind
11 of done. He can chalk that up as a win in his book if
12 his goal is to obstruct, but he doesn't do that. He
13 continues to try and engage. And he says in almost an
14 imploring tone, sir, that baby is a gift from God, a
15 blessing from God.

16 Now, you may agree with that and you may not
17 agree with that, and that's cool. That doesn't matter.
18 The point is what is he trying to do? Is he trying to
19 obstruct? They're already on their way out. He then
20 goes on, he takes it a step further and he calls somebody
21 else and he says, you know, talk to these folks. The
22 man's kind of gruff, so speak to him in love. Again,
23 these are words of persuasion. And this is after they've
24 already left.

25 Now, I suspect that's because he knows

1 there's going to be a tomorrow. And there's going to be
2 a next week, and there's going to be two weeks from now.
3 He's not about obstruction. He's about persuasion.

4 Now, in a case like this you have to draw
5 inferences as a jury. Judge will instruct you that as
6 you listen to the evidence, you are allowed to make the
7 inferences. And, you know, reasonable minds can disagree
8 when they hear a bunch of different facts. You may
9 listen to this with respect to the FACE Act violation,
10 you may listen to all these facts and you may tilt your
11 head and think, you know, maybe Coleman Boyd did help a
12 little bit here.

13 On the other hand, you may look at all the
14 evidence and draw the inference that he didn't help
15 really in the obstruction and that things would have
16 turned out exactly the same way if he had not even been
17 there. So the question is, which set of inferences do
18 you choose?

19 The good news is you don't have to decide.
20 If you've looked at all the evidence and you have two
21 sets of inferences and both sets of inferences seem
22 reasonable on some level, that's reasonable doubt. And
23 the Judge is going to tell you if there's reasonable
24 doubt, you must find Coleman Boyd not guilty.

25 The other thing to note is there was

1 testimony that Coleman Boyd was trying to avoid violating
2 the law. There was testimony that there was a lot of
3 talk and discussion of the FACE Act. A question that was
4 raised by one of the other attorneys but I think it's
5 important, if he thought he was violating federal law,
6 why would he livestream it for all the world to see?
7 Caroline Davis testified that Coleman Boyd would not
8 blockade and that he would stay as far away as possible
9 to not violate the law.

10 She said that was because he was a
11 physician, he had lots of kids and he had
12 responsibilities. She's testified that he would mostly
13 engage in sidewalk counseling. And that's essentially
14 what he did on that floor.

15 I think he was a man who had a deep-seated
16 belief about when life begins based on his faith, and he
17 was trying to live up to that obligation and was also
18 trying to stay within the bounds of the law. Not an easy
19 thing to do.

20 And I would suggest this: If his goal was
21 not to violate the law, as Caroline Davis indicated, if
22 he knew that blockades were going to happen on that
23 floor, why would he go in? He was only there for 25
24 minutes. Why would he even go in, if he knew that
25 blockades were going to happen? I would suggest that

1 it's more likely that he didn't know that blockades were
2 going to go on, that he went up there and others decided
3 to take it up a notch.

4 Now, I want to talk about Count One.
5 Count One is a criminal conspiracy against rights, a
6 serious charge. Again, a violation of the FACE Act is
7 about what happened on March the 5th. Criminal
8 conspiracy is about the agreement that happened prior to
9 March the 5th and leading up to March the 5th. The Judge
10 is going to instruct you that if a person knew about a
11 conspiracy or was even present at times or associated
12 with members of the group, that's not enough, even if he
13 approved of what was happening and did not object to it.
14 Just because a person may have done something that
15 happened to help a conspiracy does not necessarily make
16 him a conspirator.

17 We have a very clear window as to what
18 happened with respect to the FACE Act that is March the
19 5th, 2021. We have videos, we have audio, we have
20 stills, we have a lot of evidence. When it comes to this
21 agreement in Count One that occurred sometime before
22 that, we don't have that much evidence.

23 The primary source of evidence is the
24 state's -- or the government's witness, Caroline Davis.
25 In order for you to find Coleman Boyd guilty, the

1 government must show that there was an agreement. And I
2 think there was an agreement, I'm not -- I think that's
3 true. There was a loose agreement amongst acquaintances
4 to engage in a rescue.

5 But, remember, a rescue means a lot of
6 different things to a lot of different people, according
7 to Caroline Davis. The important part is that what the
8 aim of the agreement is. Because the aim of the
9 agreement, in order for there to be a criminal conspiracy
10 against rights, the aim of the agreement has to be to
11 threaten, oppress or intimidate. If you look at all
12 evidence and you get to that question and there's
13 reasonable doubt as to whether they aimed to threaten,
14 they aimed to oppress or they aimed to intimidate, then
15 on that count your job is done.

16 Again, it's not necessarily what happened
17 that day, it's what they planned to happen, what they
18 intended to happen, what they agreed the aim was to be.
19 The aim of Coleman Boyd's agreement was never to threaten
20 anyone. The aim of Coleman Boyd's agreement was never to
21 oppress anyone, and the aim of Coleman Boyd's agreement
22 was never to intimidate anyone.

23 If the aim of their agreement was to
24 threaten or oppress or intimidate, it wouldn't be hard to
25 do. And I would suggest if that was the aim of their

1 agreement, they would have done things very differently.
2 Instead of having children and women in the hallway, they
3 would get as many burly men as they could get in that
4 hallway. That would be threatening, that would be
5 intimidating, that would be oppressive.

6 If they were planning to be oppressive,
7 intimidating and threatening, they would have raised
8 their voices. They didn't do that. And that certainly
9 wasn't their plan. If they were trying to be oppressive,
10 intimidating and threatening, they would have planned to
11 yell at people and not sing church hymns. And I think if
12 they were planning to do all those things to be
13 threatening and so forth, I think they probably would
14 have planned on carrying weapons or clubs, probably not
15 Bibles.

16 Caroline Davis gives you really the only
17 window into the aim of this agreement when she was asked
18 about Coleman Boyd's role. She said she wasn't real
19 familiar with what he was doing. Her testimony, the
20 government's own witness, when she described the plan,
21 when she described what the agreement was, she said the
22 following: This was going to be peaceful, it was going
23 to be an orderly plan. The intention was not to cause
24 violence. The intention was not to upset people. There
25 was not an intention to be out there to hurt feelings.

1 No one said they were going to intimidate. Those are her
2 words. Those were the aims of the agreement, to not be
3 violent, to not intimidate, to not threaten.

4 As you deliberate, the Judge -- the Judge is
5 going to instruct you before you deliberate that it is
6 entirely up to you, the jury, to decide what facts to
7 find from the evidence received during this trial and
8 what inferences to draw from that evidence. Again, if
9 you have competing sets of inferences and you find that
10 there are -- they're both reasonable on some level, after
11 examining all the evidence, that is reasonable doubt.
12 And if you find that, you must find Coleman Boyd not
13 guilty.

14 I ask you to find Coleman Boyd not guilty of
15 Count Two, the FACE Act violation. And I especially ask
16 you to find him not guilty of Count One, criminal
17 conspiracy against rights. Thank you.

18 THE COURT: Thank you, Mr. Haymaker. We've
19 been at it about two hours, maybe it would be good to
20 take a break. We'll be in recess for 15 minutes.

21 (Whereupon, at 2:09 p.m. the jury retired
22 from open court.)

23 (Whereupon, a break was taken from
24 2:09 p.m. to 2:30 p.m.)

25 THE COURT: All right. We're ready.

1 (Whereupon, at 2:30 p.m. the jury returned
2 to open court.)

3 THE COURT: Mr. Crampton, we're ready for
4 you.

5 DEFENDANT VAUGHN CLOSING ARGUMENT

6 MR. CRAMPTON: Yes, Your Honor.

7 I want to thank you again, ladies and
8 gentlemen. Once more, my name's Steve Crampton. I'm
9 here on behalf of defendant Paul Vaughn, as you may
10 recall. It has been a long haul, and I too just want to
11 join in really sincerely thanking you for your patience
12 through the delays and so forth. But also for the care
13 and attention that you've devoted to this case. I
14 appreciate that you appear to have taken it seriously as
15 well.

16 And I know it may be frustrating that we get
17 to do all the talking up till now and y'all are sort of
18 just taking it all in. But as my co-defense counsel
19 mentioned, in moments it will be up to you to decide the
20 facts and up to you to apply the law as the Judge
21 instructs.

22 Not the government that decides what the
23 facts are, not the defense counsel, not even the Judge.
24 It's you and you alone who decide the facts. So with
25 your indulgence, I'd like to do what I can to help you in

1 that process as well.

2 Just big picture, a couple of things. One
3 is my colleague mentioned, inferences and innuendo. And
4 y'all are entitled to draw those inferences. I want to
5 suggest to you that virtually the entirety of the
6 government's case against Paul Vaughn is based on nothing
7 more than inferences and innuendo.

8 Consider, again just big picture, how much
9 time they devoted to the FBI agent, Ms. Wood, who came in
10 with all the vast resources of the federal government,
11 combing through the web traffic, finding all the Facebook
12 messages, all the text messages, any trace of
13 communications among these defendants. Remember what she
14 came up with against Paul Vaughn? Not one iota. Zippo,
15 zilch.

16 Then they had their star witness, Caroline
17 Davis, come and talk about how important planning is.
18 Oh, these are very important matters. Meticulous
19 plannings for these rescues. We've been planning for a
20 month. We met at least three times. Everybody has to
21 know their role before they go out there, on and on and
22 on. Remember what the government showed you with regard
23 to Mr. Vaughn's participation in these planning sessions?
24 Zilch. Not one mention.

25 So today we hear from the government, oh,

1 well, Mr. Vaughn was blocking in this horseshoe depicted
2 in Exhibit 4. Never heard that before. They say, well,
3 you know, you can join the conspiracy in the middle of
4 the activities. That may be true as a matter of law,
5 but, again, I challenge you, find us in the evidence.
6 Where was it that Mr. Vaughn joined any agreement among
7 these other defendants? As I said in opening --

8 THE COURT: Mr. Crampton, I'm sorry to
9 interrupt you. Do you intend to have anything on the
10 screen?

11 MR. CRAMPTON: I want to play it in a
12 moment, yes, ma'am.

13 THE COURT: Okay, that's fine.

14 MR. CRAMPTON: You do not see Mr. Vaughn
15 oppressing, injuring, threatening, intimidating anyone.
16 But before we get to some of those specifics and dig a
17 little deeper into that, I want to pause here and point
18 out a couple of things about the government's opening
19 statement. Counsel for the government has been quick to
20 point the defendant's opening statements and kind of
21 seize upon anything we said that might have been
22 untoward.

23 Remember that the government controls the
24 preparation of their evidence in this case. The
25 government goes first. The government has all its

1 resources, as I said earlier. So what does the
2 government say to you that they're going to show in this
3 case? One of the things they said to you, they promised
4 you in opening, they're going to bring to you a clinic
5 employee who's going to testify about how frightened she
6 was locked inside that clinic, et cetera, et cetera. I
7 didn't hear from a clinic employee to that effect. Did
8 you?

9 The only clinic employee who testified was
10 Ms. Flowers. And as Ms. Bell pointed out, she hardly
11 looked frightened or certainly not trapped. She came
12 right out of that clinic after she went in and you saw
13 her demeanor. And we'll see it again in a moment, we'll
14 look at a videotape.

15 The other thing the government said to you
16 in opening -- and in fairness, they are quoting some of
17 the defense's -- some of the defendants' statements. Oh,
18 this is not a protest, this was not a demonstration. But
19 then they went on, protests are a part of the fabric of
20 our nation. That's what the government told you.

21 And as I suggested to you in opening,
22 protest is kind of a loose term. I suggested to you in
23 opening, once you see the evidence, there's a lot of
24 similarities between what happened at the carafem clinic
25 on March 5, 2021, and your everyday, ordinary -- maybe

1 not so much everyday today -- sit-in.

2 Just so happens, we meet today in downtown
3 Nashville, Tennessee. Maybe y'all are not historians on
4 this, but Nashville actually is famous for the Nashville
5 sit-ins in the early '60s.

6 MR. BOYNTON: Objection, Your Honor.

7 THE COURT: Sustained.

8 MR. CRAMPTON: What you have here is a group
9 of individuals, whether or not Mr. Vaughn was a part of
10 it, joining together as some of my co-counsel have
11 indicated, not simply as Caroline Davis tried to kind of
12 pull the wool over your eyes about, to simply block an
13 entrance or somehow prevent people from going into the
14 clinic. There was a far more important component to what
15 these defendants were about. And that is expression.
16 You heard it from some of the counsel already. You've
17 seen some of the videos.

18 I want to remind you here in one of the
19 government's exhibit, Exhibit 3G, where they played for
20 you -- and they do this for your transcripts, they put
21 just this part of what is actually said in there and they
22 don't want you to hear the rest of it. They quote
23 Chester Gallagher --

24 MR. BOYNTON: Objection, Your Honor.

25 THE COURT: This is argument. Overruled.

1 MR. CRAMPTON: Listen. To make no mistake,
2 this is not a protest, this is a demonstration. These
3 are not acts of civil disobedience, and they cut it off.
4 Here's the rest of what he said --

5 THE COURT: Wait a minute, if this is not in
6 evidence, you may not --

7 MR. CRAMPTON: Yes, Exhibit 3G is in
8 evidence.

9 THE COURT: Okay. Go ahead.

10 MR. CRAMPTON: This is the obedience to
11 scripture. Following the command of the king who's
12 promised us that to the extent that we do to the least of
13 his, he will do for us.

14 It's sort of the rest of the story, if you
15 will. And I would suggest to you that this statement of
16 Mr. Gallagher is meant to convey that they are there, as
17 others have said, on behalf of those who can't speak for
18 themselves, the unborn children. And to communicate with
19 those trying to go in to the clinic.

20 In fact, a couple of other points. We're
21 going to get to this video, which the government just
22 told you on opening is perhaps the most important exhibit
23 in evidence, Exhibit 4. We're going to play it for you
24 here in a moment. I agree with the government. It's a
25 rare thing, but I'll agree with them on this point.

1 The interesting thing about Exhibit 4, which
2 is Ms. Flowers' video when she came out -- we're not even
3 going to have to watch the entirety -- is that the
4 government has played it some four times as I count. You
5 can look at the record. The first time with sound, but
6 the next three without.

7 Again, I'd ask you to consider, why would
8 they not want the sound? Counsel mentioned it again and
9 alluded to it here in his opening; didn't play it.
10 Didn't play it with sound. We're going to hear it with
11 sound. And the reason I suggest to you this is so
12 important is because, in my estimation, this is the heart
13 of what these defendants were about. It is the
14 interchange between this young lady, we don't know her
15 name -- I'm going to call her Rachel, it's a common name
16 in pro-life circles -- Rachel and Ms. Ashby and you're
17 going to see this exchange, that one-on-one
18 communication.

19 Again, you're the ultimate judges here of
20 the facts. You decide whether this is intimidating or,
21 as Ms. Flowers put it, harassing or as Ms. Ashby who, no
22 doubt, was emotionally distraught. She -- you know, her
23 feelings are real. She called it bombardment, I think,
24 of these young ladies who are desperately pleading and
25 offering help and hope to Ms. Ashby, thinking, they don't

1 know, we don't know as we sit here today that perhaps for
2 reasons of so-called terminating her pregnancy.

3 Before we get there, though, there's one
4 other little comment I want to make with respect to this
5 notion of protest and what we're about here. I would
6 suggest to you that the government's primary theory with
7 respect to the Count One, the conspiracy, is that these
8 defendants agreed to intimidate people coming to the
9 clinic. Intimidation was kind of their global theory.
10 You'll remember Ms. Davis testifying. Remember what she
11 said about just the size of a crowd? Remember that? Oh,
12 it's inherently intimidating.

13 That's how she could say to some of the
14 defense counsel on cross-examination, well, they may not
15 have intended to intimidate, but a large gathering, it's
16 just inherently intimidating. The inherent intimidation
17 theory let me call it. May I suggest to you, merely
18 assembled together just as folks outside this hallway,
19 this courtroom, gather together, they may be a large
20 crowd, it cannot be intentionally intimidating.

21 Whether you subjectively experience some
22 feelings of intimidation -- again, I am not questioning
23 the sincerity of Ms. Ashby or anybody else that tries to
24 come into a clinic like this one. But her subjective
25 feelings don't rule the day. You must step back and

1 objectively consider, is this really intimidating?

2 And if the theory of inherent intimidation
3 somehow carries the day by virtue of the size of a
4 gathering, however benign and peaceful as these folks
5 were on that day, then really I'm not sure what's left of
6 the right to assemble.

7 So inherent intimidation let's set aside for
8 a minute. One other thing about Ms. Davis, who I would
9 suggest to you as the government's star witness was,
10 maybe is, a bit unstable, okay, for lack of a better way
11 to put it. Y'all are the determiners of these issues and
12 credibility, but I want to point out a few things for you
13 on that point.

14 You saw her. Look again on those videos if
15 you need to. There is no one depicted in these videos
16 with more extreme emotional reaction, her hands up, she's
17 crying sometimes, she's crying out in song and perhaps in
18 prayer. She was as all-in as one can be on March 5,
19 2021.

20 But then you saw her on the stand here. I
21 would say she was all-in on the other side. She
22 described her own activities on March 5, 2021, as well as
23 the activities of the other defendants, silly, useless.
24 The woman wants an abortion, you know, you stop a clinic
25 for a few hours, she's going to come back and get it the

1 next day or something. It's just crazy. That's her
2 position today.

3 She talks about blowfish. Let's just harp
4 on blowfish for a minute. Consider in your own notes,
5 your own recollection, every witness that testified,
6 every piece of video that you saw throughout this entire
7 proceeding. Who else said blowfish? No one. Caroline
8 Davis says blowfish. It does appear on one video.

9 Remember as they're counting down and
10 getting ready to be arrested? And Mr. Gallagher hands
11 his camera to Ms. Davis and she's now videoing, and then
12 you'll hear her say, the blowfish are leaving, the
13 blowfish are leaving. Almost as if she just had to get
14 it onto that camera. Nobody else mentioned blowfish.

15 And consider this. Given that the heart, as
16 I will suggest to you, of the activity is about
17 expression, how Ms. Davis characterizes in her great
18 expertise and experience, all the different roles in a
19 rescue, remember? Well, there are blowfish, right? One.
20 There are drivers for those after the fact and so on.
21 There are the blockaders that actually sit in front of
22 the door. And then the only other category that I recall
23 her mentioning is police communicators.

24 Again, in this video we're about to watch,
25 you consider with the lady I'm just going to call Rachel,

1 was she just a blowfish? That's the only category she'd
2 fit in in Ms. Davis's expert depiction of what a rescue
3 is about. And I want to suggest to you that not one of
4 those individuals in the hallway that day were there in
5 some insincere role trying to manipulate and deceive as
6 the government suggests.

7 They were there out of deep conviction and
8 sincerity in their own way, as folks have testified
9 already and talked about, they were there to rescue too.
10 Whether they're praying, whether they're worshiping and
11 singing along, whether they're actually speaking one on
12 one with one of these ladies or whatever, there is
13 nothing artificial whatsoever about it.

14 Consider, who's the role player here?
15 Ms. Davis whose demeanor changed 180 degrees when
16 Ms. Bell starts asking her harder questions? Or these
17 folks that you see on those videos?

18 Jodie, would you -- let's look at this.
19 Exhibit 4 with sound.

20 (Playing video.)

21 Stop right there if you would. It's
22 obviously hard to hear because Ms. Flowers is coming out
23 of the door, but down the hallway already is Ms. Ashby
24 and these two young ladies, one of whom I'm going to call
25 Rachel because she's the speaker, okay. You can't hear

1 it, you guys can listen. I suggest to you what I think
2 she says is: Are you here for an abortion? We'd love to
3 talk to you.

4 And Ms. Ashby -- we can play it again if you
5 would, Jodie -- comes back and says, no, I don't want you
6 guys to talk to me. And, yes, as Ms. Bell mentioned to
7 you, there may be a component here, it's unwelcome.
8 We'll concede that. But that's not making it wrong, not
9 making it illegal. Sometimes we need to hear what we
10 don't really want to hear. Go ahead.

11 (Playing video.)

12 Stop if you would. Now, did you hear what
13 the lady I'm going to call Rachel was saying there? She
14 has seen Ms. Ashby with her phone out, and apparently on
15 that phone are photos of children. And she asks, ma'am,
16 you have pictures, I'm assuming they're of your children
17 on your phone?

18 And go ahead. Ms. Ashby starts to walk
19 away. (Playing video.)

20 Stop. No, we'll replay that in a moment
21 here. This girl I'm calling Rachel, as I understand it,
22 says, are your children at home? Are they more precious
23 to you than the baby inside your womb? Can you play it
24 again, Jodie.

25 (Playing video.)

1 Now, as Ms. Flowers does her no masks,
2 et cetera, super pro-life comments, in the background you
3 hear someone -- and I am thinking it's Ms. Ashby -- say,
4 do you know my situation? Responding to the girl I'm
5 calling Rachel. Can we replay that just for a moment?
6 Try to listen, see if you can hear that.

7 (Playing video.)

8 Stop right there. Remember you hear
9 Ms. Flowers pretty plainly, I hope, you need to leave her
10 alone, this is harassment. This is harassment. Now,
11 here's Ms. Rachel, addressing Ms. Ashby, not speaking to
12 Ms. Flowers at all. It's Ms. Flowers who interjects, one
13 might say, interposes between the two of them and
14 immediately labels it harassment.

15 Again, these are loaded terms. And it's
16 very, very important in this context where we have these
17 vague suggestions of intimidation and whatever. I do not
18 doubt, again, even the sincerity of Ms. Flowers, I guess
19 Ms. Ashby might even agree with that. That she receives
20 it, if you will, subjectively, as harassment doesn't make
21 it objectively so.

22 If you can imagine a more sincere plea than
23 this Rachel is making here, I'd like to hear what it
24 would be. Go ahead and play it.

25 (Playing video.)

1 Stop right there. There it is in a
2 nutshell. Although Ms. Flowers is trying to disrupt and
3 interrupt, she steps away or whatever. And here's what
4 this Rachel lady says as I hear it. Do you know how many
5 moms we've helped? I can show you pictures of babies
6 who've made it, whose mothers and fathers have chosen to
7 keep them and love them. And we've helped them. It's
8 been the most beautiful story.

9 Go ahead if you would, play on for a moment.

10 (Playing video.)

11 You can stop right there. As she's walking
12 away, we'll be up here, we'd love to talk and help you
13 all however we can. As sincere an offer of help and hope
14 as you get. Again, we know nothing of the individual
15 circumstances here, but what I'll say you cannot conclude
16 from what you just witnessed is that this lady is a mere
17 blowfish, playing a role to deceive and make the police
18 delay and somehow engage in this as if it's theater or
19 some game. This is no game. To these folks, those are
20 matters of life and death.

21 You have less than 60 seconds on that tape
22 with the interchange between this Rachel and Ms. Ashby.
23 And even hearing that, you've got commotion on the side,
24 you've got Ms. Flowers interrupting, you've got Nicholas
25 Ashby coming out and taking Ms. Ashby away. Very

1 difficult circumstances to communicate maybe a very hard
2 truth.

3 Now, say what you will about the actions,
4 but I want to suggest to you that there's more than meets
5 the eye here, if you will, than just maybe somebody
6 sitting in front of the door. These are heart-felt
7 communications of maybe hard truths. Truth is a funny
8 thing, right? You can ignore it, you can suppress it,
9 but in the end you really can't deny it.

10 And when someone speaks hard truth to you,
11 you might react, just as Ms. Ashby did, get away from me,
12 this is harassment, you're bombarding me. Maybe because
13 you just don't want to hear it, but maybe you need to
14 hear it.

15 There's a proverb that says, a word thickly
16 spoken is like apples of gold in settings of silver.

17 MR. BOYNTON: Your Honor, we object.

18 THE COURT: It's getting a little preachy
19 here, excuse me. Can we stick to this case?

20 MR. CRAMPTON: Yes, ma'am. The point is,
21 just because it's hard to hear doesn't mean that you
22 should be precluded from speaking it. So I would urge
23 you as you go into your deliberations, for all the other
24 evidence, let's agree with the government, Exhibit 4 is
25 the most important exhibit in this entire trial. The

1 whole thing is only about two minutes, ten seconds.

2 Won't take you long watch it again.

3 Well, Ms. Davis, the star witness and expert
4 on rescues, also tried to make light of people who are
5 praying and considering what exactly they're going to do
6 when they get to these events. Remember that? Well, you
7 know, they talk in terms of I'm seeking the Holy Spirit
8 or something, but they know what they want to do. That's
9 what she said. But then we got to her own experience and
10 she sort of contradicted herself. She said, well -- I
11 think this was in the context of the DC thing, but you
12 look at the record and correct me. I was on the fence
13 the whole time. I didn't know what I was going to do
14 until the last minute. That was her own experience.

15 Then she testified I think in response to
16 some of the questions that my co-counsel asked on cross,
17 that's how everybody is. They don't know until the
18 moment arrives exactly what they're going to do. This
19 isn't role playing, ladies and gentlemen. It's very
20 serious undertaking. Blowfishing, I would suggest to
21 you, is balderdash. It is not what this group is about.

22 And Ms. Davis's testimony, you can accord
23 the weight you will, but it's a hard sell, it seems to
24 me, in this context to suggest that these people are just
25 role playing, they're out there to deceive.

1 Again, as you look at these videos, you look
2 at the faces of the people in the hallway. Look at the
3 faces of these defendants. See if you see the kind of
4 insincerity that the government and Ms. Davis suggest is
5 really what they're about. They're all just tricking
6 everybody. Paul Vaughn, he's only there to deceive the
7 police and try to buy additional time.

8 Well, I didn't hear a witness from the
9 government that said that that's what he was doing. My
10 recollection, y'all look back, is the police negotiator
11 himself, Mr. Watkins, trained on these things, special
12 training on how to identify who's pulling the wool over
13 his eyes, what did he say about Paul Vaughn?

14 He said Paul Vaughn was sincere. Paul
15 Vaughn was cooperative. He had no doubt that Paul Vaughn
16 was definitely helpful. He wasn't a hindrance, he was a
17 help, as I mentioned to you in opening. He said he never
18 saw any sign of Paul Vaughn deceiving him.

19 Now, maybe Paul Vaughn is the greatest actor
20 that ever lived, y'all have to make that decision, but
21 Travis Watkins is a man with experience and training in
22 this area. Travis Watkins dealt with Mr. Vaughn one on
23 one for quite a period of time there. Travis Watkins'
24 testimony under oath is Paul Vaughn was not deceiving.
25 He was very cooperating. He was very helpful to the

1 police and he ended up assisting in making this a
2 successful negotiation. That's his testimony. You check
3 it out.

4 Again, you must distinguish, I would suggest
5 to you, objective versus subjective. There is no
6 question subjectively, there are all kinds of concerning
7 interchanges in this case. And I wish it weren't so.
8 I'm sure the defendants wish it weren't so. But you have
9 to decide in the context of these two charges' intent,
10 what was the intent of these defendants. And let me at
11 this point just focus on Mr. Vaughn. What evidence do we
12 have of his intent? Precious little. The government
13 can't point to you exactly how he got there.

14 The government hasn't shown you any
15 statement from Mr. Vaughn as to his intent. The
16 government relies upon innuendo, inference. That's what
17 they rely on. That's a pretty thin sheet to be stepping
18 on and putting the weight of this federal charge on.

19 Remember what a couple of my co-counsel have
20 alluded to. In the Judge's instruction, please pay
21 particular attention, it's a difficult concept, this
22 whole idea of beyond reasonable doubt. It's easy to say,
23 but when you come to really applying it, it's not easy.
24 And it's up to you. And I believe as some have already
25 kind of quoted or alluded to, it's the idea that it's so

1 convincing to you, you would not hesitate to rely on it
2 in the most important decision of your life.

3 Have y'all ever heard the story of the high
4 wire act? He's walking across between two skyscrapers,
5 balancing along and makes it back and forth and the crowd
6 gets bigger and bigger. He pulls out a wheelbarrow and
7 he goes across with a wheelbarrow and he makes it back
8 and forth. The crowd's cheering and roaring. Then he
9 gets somebody to come and sit in the wheelbarrow. And he
10 makes it back across again. And he stops and he asks the
11 crowd, how many of y'all think I can make it back across
12 without falling again? Oh, we all believe you, yeah.
13 How many of you want to get into this wheelbarrow? Guess
14 what? There were no hands.

15 I would suggest to you that beyond a
16 reasonable doubt means you're willing to get into that
17 wheelbarrow. You're not just going on, well, maybe it's
18 this way. The government suggests, yeah, you know, Paul
19 Vaughn -- Jodie, can you find the part where they make
20 the horseshoe grouping? I forget if that's before what
21 we were looking at or after. Play it on. This is in
22 that same video of Exhibit 4. Yeah, right in there.
23 Stop. Can you get -- there you go.

24 Okay. Here is maybe the government's
25 smoking gun against Paul Vaughn. Here he is, they say,

1 in the famous horseshoe shape that I think we've never
2 heard of until Caroline Davis testified that this is a
3 common tactic among rescues. And, I mean, she is an
4 expert. Notice there's no one walking down that way.

5 This video, you'll recall, is in the context
6 of Ms. Ashby, who's down at the other end of the hall,
7 and Ms. Flowers, who's already come and gone in between
8 those folks without any impediment whatsoever. And look
9 where Mr. Vaughn is. You see him over there on the far
10 right holding his phone, almost right up against the
11 wall?

12 That, ladies and gentlemen, is the
13 government's idea of a man intentionally obstructing
14 access to the clinic. That's what they got against Paul
15 Vaughn. I want to suggest to you that that's a whole lot
16 of inference and innuendo. All right. Whole lot of
17 inference.

18 Now, the government also mentions, well,
19 we've got video of Mr. Vaughn coming in the building.
20 And guess what, he's standing next to some of these
21 defendants. Well, there you go. I guess they got him.
22 Really?

23 Listen carefully to the instructions, if you
24 would. Mere presence with the defendants -- and we'll
25 stipulate Mr. Vaughn was present with the defendants at

1 various times on these day, the other defendants. Mere
2 presence is not enough. Even if he knew about the
3 conspiracy so-called -- and there's no evidence that he
4 did, I would suggest to you. If he even approved of the
5 so-called conspiracy, which, again, I would suggest
6 there's precious little evidence, maybe you can find some
7 inference here, not enough. Not enough.

8 At the end of the day it seems to me,
9 contrary to the government's suggestion, the only
10 logical, fair, just conclusion with regard to Mr. Vaughn
11 is not guilty on conspiracy, not guilty on a FACE
12 violation.

13 Mr. Vaughn, as Travis Watkins testified,
14 served as a messenger for the police department. They
15 were sending him down the hall to deliver these
16 instructions. Find out how many are going to not leave
17 when we give the final dispersement order, et cetera,
18 et cetera. He was a mere messenger.

19 The government has not explained anything
20 about Paul Vaughn, other than he happens to be present
21 when Chet Gallagher undertakes his instructional video
22 and says this is one of our tactics or whatever he says.
23 Not Paul Vaughn saying it, Chet Gallagher. But they say,
24 look at Paul Vaughn, I think he nodded. I think he
25 nodded. And then one of them suggested later, oh, look

1 he's smiling. A nod and a smile. A lot of inference, a
2 lot of innuendo.

3 What Mr. Gallagher thought about these
4 proceedings is one thing. What Mr. Vaughn actually did
5 and agreed to is an entirely different matter. Remember
6 too in this whole picture with the police, the government
7 wants to say, gee, these defendants are responsible for
8 using up all these resources and so on. We didn't ask
9 for mutual aid to respond. We didn't call out EMS. We
10 didn't ask every officer in the force to come down.

11 Remember why they did that? It's a matter
12 of policy. Mr. Watkins and the police department had a
13 duty to follow their own policy. It's not Paul Vaughn's
14 fault. Remember Mr. Watkins' testimony about why was
15 there a delay? It does seem to have taken a long time.
16 Candidly, it's true, it took them a long time.

17 Remember what he said first. Who was in
18 charge this entire time? It wasn't Paul Vaughn. It was
19 the police. Had they wanted to initiate a mass arrest
20 immediately upon arrival, they could have done it. The
21 government extracted testimony about how many handcuffs
22 and so forth were available. They could do it.

23 It's their call, their call alone. It's not
24 Mr. Vaughn's call. It's not Chet Gallagher's call. It's
25 no one's call but the police department. They had their

1 own policy to follow, which I presume they followed. And
2 they did what they did. There were all those factors,
3 who's in charge. There's children here, we need a
4 transport van, whatever. Paul Vaughn didn't suggest any
5 of that. There's no evidence that he did.

6 Paul Vaughn helped with the police and he
7 served as a messenger, and the government wants you now
8 to shoot the messenger. My plea to you is don't shoot
9 the messenger. Paul Vaughn is not guilty of any charge
10 in this case. Thank you.

11 THE COURT: Thank you, Mr. Crampton.

12 Mr. Russ.

13 And can we take the videos down unless
14 Mr. Russ requests something? He doesn't want any videos.

15 DEFENDANT GREEN CLOSING ARGUMENT

16 MR. RUSS: Good afternoon, everyone. I'm
17 Ben Russ --

18 THE COURT: Just a minute, Mr. Russ. I'm
19 waiting for the screen to go blank. Go ahead.

20 MR. RUSS: I'm Ben Russ, I represent
21 Mr. Green. I know you haven't had a lot of opportunity
22 to hear from me this week, but that's also because my
23 co-counsel's done such an amazing job. We try and be
24 respectful with your time, and I do want to echo their
25 thanks for your attention.

1 You've heard, of course, there's two counts
2 here and the first count's conspiracy, the second count
3 is the violation of the FACE Act. I'd like to talk about
4 Mr. Green specifically, and I'd like to give you a reason
5 both as to Count One and to Count Two, one that's
6 factual, one that's legal as to why he's not guilty on
7 either count.

8 I'll start with Count One and I'll start
9 about the factual basis. This is the conspiracy count,
10 of course, and this is where the government has tried to
11 prove that Mr. Green is part of some conspiracy. And,
12 again, an agreement to oppress, threaten or intimidate
13 someone at this clinic out of their constitutional right.

14 The evidence that the government has tried
15 to use to convince you of this is that someone, other
16 than Mr. Green, text messaged a handful of times in
17 February that the Greens might be coming to the Nashville
18 area for this. They've also produced what's Exhibit 12,
19 which we talked about a little bit here and I'll talk in
20 a minute about a Facebook post that Mr. Green put up in
21 June of 2021, three months after this happened to show
22 that he was there and knew what was going on. Well, we
23 knew that much. We saw the video.

24 The only other evidence that they have
25 produced, they try to say the fact that he showed up with

1 a video camera and his children came with him is evidence
2 that he has reached an agreement prior to arriving to
3 violate the law. The only evidence the government has
4 brought to you is through Caroline Davis.

5 Caroline Davis talked about a lot of things,
6 but the primary thing that she talked about involving
7 this alleged conspiracy is this meeting in the pavilion.
8 She talked about a meeting at the hotel the day before,
9 and there was a larger meeting, and then there was a
10 smaller meeting where they were outside by some picnic
11 tables. And at that meeting, that's where she claimed on
12 her direct testimony that roles were assigned.

13 And there was the blowfish and drivers and
14 people who were going to blockade and people who were
15 going to negotiate and things of that nature which y'all
16 heard. She said, yes, they were there, Mr. Green was
17 there.

18 But then in cross-examination, Ms. Bell
19 asked her, let's talk about this pavilion meeting again.
20 Who wasn't there? And she said, well, Paul Vaughn wasn't
21 there. And Mr. Green, he -- actually, I'm not a hundred
22 percent sure that he was there.

23 So, you heard a couple of times the
24 paraphrase of what the judge will instruct you in a
25 little while about reasonable doubt, would that evidence

1 allow you to make the most important decisions in your
2 life. I'll be more everyday: Getting married, buying a
3 house. If someone came in and said, this house is four
4 bedrooms, two bathroom and 3,000 square feet. And you
5 say, how many -- well, I think it's four, it might be
6 three. Maybe 2,000, I don't know -- I'm pretty sure
7 four. Would you know what you were buying then? Would
8 that allow you to rest your decision firmly?

9 Again, the evidence the government has
10 presented from all these witnesses, all these text
11 messages as to Mr. Green's involvement in this criminal
12 conspiracy, this agreement to violate civil rights
13 through intimidation, is Caroline Davis, and she's not
14 even sure he was there during this meeting where the
15 roles were assigned.

16 So I would submit to you that's a factual
17 reason. There are a lot of other people that were there
18 at this event at the clinic that are not charged here in
19 a criminal conspiracy. The fact that Dennis Green came
20 to the event doesn't mean he was part of the conspiracy
21 prior to being there.

22 And as we've talked a little bit about and
23 I'll reiterate, the fact that he knew the people were
24 going to show up or he associated with those people is
25 insufficient to say that he was a part of the conspiracy

1 and he agreed to be in it.

2 So as I said, that's a factual reason why
3 the government hasn't met their burden as to Count One as
4 to Mr. Green. I have two legal reasons. One has been
5 discussed at length, the other less so. So I'll be as
6 quick as I can. Again, as Mr. Parris said and various
7 other people said, the intent of the group when they
8 formed the agreement is what you have to focus on for
9 Count One. Not what necessarily happened on March 5 at
10 the clinic. What did they intend to do.

11 And what Ms. Davis said, again, is really
12 the only window we have into this conspiracy in any
13 detail other than a handful of text messages. What she
14 said was no one intended to intimidate anyone. No one
15 intended to threaten them. No one intended to oppress
16 them. And because that's the case, the government hasn't
17 proven the element of intent in this agreement that will
18 allow you to rest your verdict on that proof.

19 Another legal aspect has been touched on,
20 but I'll touch on it a little bit more since I was the
21 one who was questioning her. And I said, you've said
22 three or four times during your testimony that during a
23 rescue, leading up to a rescue, do you know that you're
24 going to be a blockader, that you're going to risk
25 arrest, that you will actually be arrested?

1 And she said, no, you know, we have to seek
2 guidance and pray about whether we're going to go through
3 with it essentially. And then I asked her, you know, if
4 you had this meeting in the pavilion where everybody had
5 their assigned roles, and according to her, as many as 12
6 to 24 hours before they knew who was going to blockade,
7 they knew who was going to be arrested.

8 Well, then why is Mr. Gallagher going around
9 at the very end, two and a half hours into them being in
10 the clinic, asking who's going to get arrested? How do
11 you know who entered this agreement, if you have to pray
12 and it's an individual decision, as you've said yourself
13 you did in various other rescues she participated in.

14 She kind of alluded to, well, that was some
15 kind of a subterfuge. Well, I mean, which one is it?
16 Did you know? Was this agreement in the pavilion an
17 agreement or was this I think I'm going to risk arrest
18 and I'm going to rely on my own spiritual guidance and
19 pray about it? If you don't know whether -- if they
20 didn't know who had entered the agreement, then you can't
21 find Mr. Green or anyone else guilty of the conspiracy
22 either.

23 I'll move on to Count Two, the factual basis
24 that I said. We've watched again Ms. Flowers' video. We
25 watched Mr. Boyd's video which is essentially two

1 different angles of the same thing. We saw the
2 interaction with the Ashbys, we saw the interaction with
3 Ms. Flowers herself, of course. We heard all of their
4 testimony.

5 And we also saw various other videos that
6 show when the Ashbys are encountered by various members
7 in the hallway, when they are told by Ms. Flowers to go
8 back to their car, when Ms. Flowers is trying to return
9 to the office and eventually exits the building and
10 doesn't come back. Dennis Green wasn't even in the
11 building. He was on his way up. He never interacted
12 with Nicholas Ashby. He never interacted with Melissa
13 Ashby. He never interacted with Ms. Flowers at all.

14 So factually in order for you to find him
15 guilty of that -- and the jury instructions will make
16 these things more clear -- you have to show he either did
17 the act or he aided and abetted. And there's been a
18 little discussion, but I'll hit on it again. How did
19 Dennis Green help or encourage the people in the hallway
20 in this video we watched yet again about ten minutes ago?
21 What did he do to encourage or help them? How did he aid
22 and abet them in whatever happened with the Ashbys,
23 whatever happened with Ms. Flowers?

24 I submit that the evidence can't show you
25 that he did that because he didn't. He wasn't there.

1 Lastly, I'll talk about the legal basis for the second
2 count. And this has been discussed and is kind of the
3 crux of that kind of course, the interference. Again, we
4 have Ms. Davis's opinion. We have what she said in --
5 that was I wasn't moving no matter what.

6 However, you have to decide whether that --
7 well, let me rephrase this. Ms. Davis is the only person
8 that's saying that. She's the only person that's saying
9 that I'm going to block, I'm going to actively interfere
10 with these people's ability to get in the clinic no
11 matter what. I think he's Corporal Schneider now said
12 they weren't going to be a deterrent to me. Mr. Ashby
13 said they weren't going to be a deterrent to me.

14 Corporal Schneider said, if this young lady
15 wanted to go in the clinic, I was going to get her in the
16 clinic. Mr. Ashley said, if Melissa had decided she
17 wanted to go in the clinic, I was going to make sure she
18 was going to go in the clinic. It was only Ms. Davis who
19 said, absolutely we were going to lay in the road, so to
20 speak.

21 And then at the end of the day, as other
22 people have pointed out, it's not actually what they did.
23 They were arrested. They didn't chain themselves to
24 anything. So I'll say that as a legal basis as to
25 Count Two as to why you shouldn't find Mr. Green guilty.

1 I really do appreciate your time. I
2 appreciate your attention. And when you go back and you
3 deliberate here in a little while, I think you'll have to
4 find Mr. Green not guilty on both counts for the reasons
5 I'm discussed.

6 THE COURT: Thank you, Mr. Russ.

7 Mr. Conway.

8 DEFENDANT IDONI CLOSING ARGUMENT

9 MR. CONWAY: Thank you, Your Honor. Ladies
10 and gentlemen, last again. But I'd also like to say I
11 think that I'm also least in the fact that I represent
12 the only female who has, I think, the least amount of
13 evidence against her in this entire case.

14 Now, if you remember in my opening statement
15 what I said about a week ago, you know, what did I miss.
16 I didn't miss the prayer and Ms. Idoni lifting her hands
17 up in reverence, but those clips just weren't shown by
18 the government. But we all know that there's a mountain
19 of video out there. There's Mr. Green's video, there's
20 Mr. Gallagher's Facebook livestream, there's Mr. Boyd's
21 video. There's the body cams on the patrol. But the
22 government is introducing the clips that are germane to
23 the offenses.

24 So the other two and a half hours of them
25 praying and, you know, talking with police and things,

1 those aren't germane. They're just introducing the
2 clips.

3 My main point in the opening was to talk
4 about how Ms. Idoni, how you're never going to see her,
5 throughout anything that they could have presented,
6 talking to any patients or interacting with any patients
7 or talking with any providers or interacting with any
8 providers or talking with any police or interacting with
9 any police other than just the demographics of giving her
10 name and location.

11 Now, speaking of those government clips, if
12 you add them all up, it equals about 36 minutes total.
13 So that's roughly six minutes per defendant. Given the
14 severity of the charges and given the serious nature, I
15 would ask you-all that when you go back to just take the
16 36 minutes and review them collectively as a group. Do
17 so amongst yourselves without four hours of narration
18 from a bias and self-interested party, which was Caroline
19 Davis.

20 Do so remembering the transcripts that you
21 had when you watched them initially. And if you'll
22 remember the transcripts, you'll remember that Heather
23 Idoni was never mentioned. The name Heather at all.
24 Idoni, not mentioned. She does not speak in any single
25 video clip, just as she doesn't -- you don't see her

1 talking to anybody else.

2 This is not what she signed up for on
3 March 5. You've heard from Ms. Davis that rescue can
4 mean a lot of different things to different people. And
5 that some people are devout and they're deeply religious
6 and that they pray for these rescues and then they're
7 guided by the Holy Spirit.

8 Ms. Davis did say that at one point in time
9 that she wholeheartedly believed in this and
10 wholeheartedly believed in this prayer towards the Holy
11 Spirit. Well, then you saw her when she testified this
12 week, and I guess now she just thinks it's kind of funny.
13 She thought the whole entire thing was funny. She
14 laughed and giggled the entire time that she was up there
15 on the witness stand. She just enjoyed and relished
16 being the center of attention.

17 Now, the demeanor certainly changed when
18 Ms. Bell started to ask her questions. Folks, Ms. Davis
19 is going to be as prepared as any witness you will ever
20 run across. She works full-time for a criminal defense
21 attorney. She's got a criminal defense attorney in
22 Michigan, she's got one in Nashville. She's met with the
23 government multiple times. She's getting help on all
24 sides and all aspects in preparation for her testimony.

25 And the Judge is going to instruct you on

1 witness credibility. I'd ask you to notice the
2 difference in all of the other witnesses that testified
3 in relation to how Ms. Davis testified. Even the police
4 officers that testified -- and they do this on a regular
5 basis, it's part of their job -- they weren't near as
6 comfortable as Ms. Davis was.

7 It kind of reminded me of the second day of
8 work on my first legal job. I was working for a friend
9 of my grandpa's down in south Georgia. It was the second
10 day. It was the first hearing I'd ever been to, the
11 first time that he had ever asked any questions of any
12 witnesses.

13 On the way back to Waycross, he told me, he
14 said, son, he goes, you'll only ever run across two
15 witnesses through your entire legal career. The witness
16 that wants to tell you their story and then there's the
17 witness that wants to sell you a story. And ask
18 yourselves, what does Ms. Davis have to gain in her
19 testimony?

20 Well, I think you heard it's a lot. What is
21 her relationship to the government? Well, you know with
22 her cooperation agreement, she's basically tied at the
23 hip with the government. And we get these little
24 summaries of testimony after the end of each day, and in
25 reviewing Ms. Davis's testimony about the planning of

1 these rescues, something stuck out to me.

2 And at first I want to tell you that what
3 the Judge is going to tell you, I think, is that you
4 don't check your common sense and you don't check your
5 life experiences that make us who you are at the door
6 when you're evaluating witness credibility and when
7 you're going over the facts.

8 Ms. Davis said that either she or someone
9 would call these clinics, they'd make a fake appointment
10 and make sure it was a, quote/unquote, kill day. Back in
11 March 5, 2021, obviously Roe had not been overturned at
12 that point in time, but you-all are all Tennesseans and
13 everybody knows, Tennessee had a 48-hour waiting period
14 to get an abortion.

15 MR. BOYNTON: Objection, Your Honor. Facts
16 not in evidence.

17 THE COURT: Sustained. Facts not in
18 evidence, Mr. Conway.

19 MR. CONWAY: Judge, may we approach?

20 THE COURT: No.

21 MR. CONWAY: It's common sense, I think,
22 that when you think about Ms. Flowers and you think about
23 the safety protocol, I think just a layperson common
24 sense if there's this much safety protocol, they're
25 probably not answering the phone, yeah, we're having a

1 bunch of abortions today. That's not consistent with
2 their safety protocol.

3 So what Ms. Davis testified to as far as the
4 planning, that certainly makes no sense. And keep in
5 mind that Ms. Davis and her testimony is the only person
6 that ties Heather up into the conspiracy. Well, that and
7 the evidence of those darn Wyndham points that she had or
8 credits or whatever that she allowed and she paid for all
9 of the lodging for everybody else.

10 But you're going to be instructed that just
11 because she helped some of these people out, just because
12 she was present in the hallway that doesn't mean that she
13 agreed with anybody to threaten or intimidate or oppress
14 anybody at all.

15 I'd submit to you that Mr. Zastrow's version
16 of a rescue might be a little bit different than
17 Ms. Idoni's of a rescue. Exhibit 16, that's the one with
18 Officer Schneider, a corporal, sergeant -- I kind of get
19 mixed up a little bit, but obviously Officer Schneider
20 everybody knows.

21 And you'll notice the difference, what
22 Officer Schneider does is he grabs the patient
23 immediately off the elevator and he walks quickly down
24 past who I would call Cal's counselors. These are the
25 counselors that are supposed to be talking to the people

1 prior to getting to the clinic. And then Mr. Zastrow
2 makes the independent decision to stand up and to get in
3 front of Officer Schneider.

4 Now, you'll see the video recording video
5 and Heather's nowhere in the video. And I know he
6 ultimately moves, but nothing shows that Heather signed
7 up for that, that she wanted to do that, that she agreed
8 to that.

9 Ladies and gentlemen, I want to point you to
10 Exhibit 13. You haven't actually seen the full
11 Exhibit 13, but it's been admitted. What you've seen is
12 you've seen the demonstrative PowerPoint that the FBI
13 showed you as far as what came back on the search
14 returns. Well, if you want to see the entire message
15 between Mr. Gallagher and Ms. Idoni and when they're
16 using the Wyndham hotel and everything, you can see that
17 and it will be in Exhibit 13.

18 It's just the demonstrative exhibit was just
19 cherrypicked from the government, but you're going to
20 have all of the exhibits when you go back there. I'd ask
21 that you review all of the exhibits. And you'll see the
22 conversation about the Wyndham, and I'd argue to you that
23 the only reason -- you look at all these videos, and the
24 only reason that Ms. Idoni is sitting at this defense
25 table is because she arranged and she paid for the

1 lodging at this Wyndham because she had the credits or
2 the points.

3 I want to talk just a little briefly about
4 the verdict form because even though I've been last in
5 everything, Ms. Idoni is -- for some reason, she's
6 sandwiched between Mr. Zastrow and Mr. Gallagher.

7 Well, you don't go in order or anything when
8 you're evaluating the different people. The defendants
9 stand alone in their evaluation and when you go back and
10 you're deliberating. I think that you've seen varying
11 levels of evidence against each defendant. And just
12 realistically, Exhibit 16 of Mr. Zastrow in the hallway,
13 I think that is a significant piece of evidence as far as
14 in relation to Count Two. But you'll never see that
15 Ms. Idoni encouraged that or that she wanted that to
16 happen.

17 So when you're deliberating and you're
18 evaluating these different levels of evidence, you're
19 going to say, I'm very sure that -- and I won't name the
20 defendants, but I'm very sure of their guilt as far as
21 maybe Count Two. But when you go to Ms. Idoni, you're
22 going to say, well, I don't know about that, I don't know
23 about her as far as Count Two.

24 And I would submit to you that the Judge is
25 going to tell you, and you've heard it from some other

1 attorneys, that that hesitation that you have in making
2 the decision, that's what reasonable doubt is. Now,
3 there's all kinds of doubt when you start talking about
4 the conspiracy, but I was talking about Count Two.

5 Now, at the beginning of the trial I gave
6 you a timeline of the case and I said that it was going
7 to come at you in three chapters, one was going to be
8 what happened prior to March 5, 2021, one was going to be
9 what happened in the hallway, and one was going to be
10 what happened when the federal authorities got involved.

11 Well, the last chapter, the conclusion is
12 going to be written by you-all in the deliberation room.
13 Ms. Idoni, her fate, is being held in you-all's hands and
14 it's a great responsibility. It's one of the greatest
15 responsibilities you have as an American citizen.

16 And I want you to do something for me
17 because it's easy to lump all of these people in
18 together, but don't do what's easy. At the beginning of
19 the trial you-all stood up and you raised your right hand
20 and you swore an oath. You swore an oath to thoroughly
21 examine the facts, you swore an oath to hold off on
22 making any decisions until you've been instructed on the
23 law by Judge Trauger.

24 And after the jury instructions that she
25 gives you and when you go back in the deliberation room,

1 you're going to come to the conclusion that Ms. Idoni
2 never agreed with anybody to oppress or threaten or
3 intimidate anybody that day. There's just no evidence of
4 any type of agreement, and she didn't obstruct anybody.
5 And once you do that, then you'll come back with a not
6 guilty as far as Mrs. Idoni's case is concerned. Thank
7 you.

8 THE COURT: Thank you, Mr. Conway.

9 Government rebuttal?

10 GOVERNMENT REBUTTAL CLOSING ARGUMENT

11 MS. KLOPF: Yes, Your Honor.

12 The purpose of all of this was to stop
13 patients from accessing the clinic. That is oppression,
14 that is intimidation. Think of your understanding of
15 oppression. Not in the sense of government oppression,
16 that's not what we're talking about here. But another
17 person preventing a person from exercising their
18 freedoms, their rights.

19 Ask yourself, could the employees and the
20 patients of the clinic have gone about their business
21 that day or were they intentionally prevented from doing
22 so? That's oppression.

23 Think about a different circumstance for a
24 minute. Let's take it out of the hallway of carafem. A
25 person wants to go exercise their right to vote. The

1 person goes to the polls. When they get there, the voter
2 sees 30 people in a hallway leading up to the polling
3 place. These 30 people have gathered there together with
4 the express intention of blocking people from entering
5 the polling place. They create a wall of people to
6 ensure that the voter cannot get inside, that the poll
7 workers cannot get inside.

8 They sing at the voter, they express
9 opinions against voting. They're polite. They don't
10 shout. They are not violent. But their intention is
11 still to oppress that voter, to prevent that person from
12 exercising a right secured by the constitution or the
13 laws of the United States. And those 30 people acting
14 together in concert, they're conspiring to oppress, to
15 intimidate the free exercise or enjoyment of a right and
16 privilege secured by the law, in my example, voting.

17 A person is oppressed when they cannot
18 exercise their rights. If they are prevented from
19 entering a polling place and exercising their right to
20 vote, if they're prevented from entering a church and
21 exercising their right to religious freedom, if they're
22 prevented from entering a clinic and exercising their
23 right to access -- their right to access to reproductive
24 healthcare, and that's what's happened here.

25 The purpose was to keep that clinic blocked

1 as long as possible and prevent any patients from
2 accessing the clinic. Yes, the defendants didn't use the
3 explicit words oppress or intimidate while they were
4 making their plan, but you know from their words what
5 they were doing and what they meant to be doing. No one
6 ever had to say the word intimidate. They didn't have
7 to. They were not going to let anyone in. And that's
8 clearly evident when you watch that video of Sergeant
9 Schneider trying to walk the patient down the hallway.

10 You heard Paul Vaughn saying, don't do this.
11 You hear Chester Gallagher saying, I'm not -- we're not
12 going to let you do this. And you see Schneider
13 ultimately fail. He does not get that patient to the
14 door. That is intimidation, that is oppression. That
15 was the goal of this conspiracy.

16 And, yes, there is no explicit text message
17 or Facebook post that says, let's go intimidate, let's go
18 oppress, but you can use all of the evidence that's been
19 provided to you to figure out what their intention was.
20 Today if someone walked into this courtroom and they told
21 you it's raining, you could believe them. But say they
22 don't say that. They just walk in and they've got wet
23 boots, you might say, okay, I think it's probably
24 raining. Maybe they're holding a wet umbrella, you'd
25 say, I really think it's raining.

1 In this case you've got wet boots, you've
2 got wet umbrellas, you hear thunder, your phone is
3 buzzing with thunderstorm warnings. You know it's
4 raining. You know don't need to be told with direct
5 words, it's raining, because you can look at these
6 defendants' conduct and know exactly what they were
7 trying to do. They were trying to prevent people from
8 accessing that clinic for as long as possible. And doing
9 that is oppression.

10 What they also did was intimidation.
11 Mr. Crampton asked you during his closing, objectively
12 consider if their conduct was intimidating. And I'm
13 going to ask you to apply your reason and common sense.
14 They didn't have to yell. They didn't have to be
15 violent. They didn't have to bring weapons. Doing that
16 would have elicited a massive police response, and they
17 didn't want that. They wanted this to last as long as
18 possible.

19 And they had enough people there that they
20 didn't need to yell. The sheer numbers alone, they were
21 successfully intimidating. And all of the witnesses that
22 came before you testified to something like that.
23 Schneider, he testified that based on my training and
24 experience the average person would not walk down that
25 hall for being intimidated, overwhelmed, possibly in

1 fear.

2 Flowers described her panic. She described
3 her response to seeing Melissa Mendez in the hallway.
4 Her gut reaction was that she wanted to protect her.
5 Mr. Parris said that Flowers wasn't scared because she
6 was being salty on the recordings. But a person can both
7 be scared and annoyed. They can be panicked and rude.
8 Ms. Flowers was intimidated by what was happening in that
9 hallway, and she was intimidated for the patient, for
10 Melissa Ashby. She was worried about Ms. Ashby's safety.

11 Ms. Davis testified over and over again
12 about the purpose of having all of those people in the
13 hallway. She said that a purpose of a blowfish is that
14 when mothers are coming to the door, it's even more
15 intimidating for them. So that when they're walking
16 towards the clinic they see all those people and it's
17 like, whew, I don't even know what's going on here.

18 Later she said that if I were a patient --
19 something along the lines, if she was a patient and she
20 saw that massive group of people, she wouldn't go
21 through, that she would be intimidated. She believed the
22 goal of having all those people was -- that it was
23 inherently intimidating.

24 She said that the natural consequence of
25 such a huge blockade was that it was intimidating. She

1 was aware of a high probability that both patients and
2 employees would be intimidated by such a large group of
3 people. Melissa Ashby, she testified to you that seeing
4 all of those people made her nervous; that Boyd's conduct
5 made her feel violated.

6 The women in the hallway, the two that came
7 up that I think Mr. Crampton was using the name Rachel to
8 describe, they were looking at her personal phone. She
9 didn't want them talking to her. They were looking at
10 the picture on her phone and asking her personal
11 questions, invading her space, making her feel
12 intimidated. Because why did they want to intimidate
13 her? They didn't want her going in that clinic.

14 Using intimidation meant that she wasn't
15 going to try to go down that hallway. Ms. Ashby said
16 there were way too many people for me to get in that door
17 and it was just impossible. She said she was maxed out
18 on her anxiety scale. She felt violated and
19 uncomfortable, and she said it was extremely
20 intimidating.

21 Nicko Ashby. Even him, a man who has been
22 deployed twice, all of those people made him feel
23 anxious, made him uncomfortable. Made him think about
24 what he might need to do to protect Melissa Ashby. He
25 was scared that either he was going to have to be

1 physical or that something physical might happen.

2 And you saw the eyes of the woman in
3 Exhibit 16. Watch that video again and watch her eyes.
4 See how she looks as she's trying to follow Schneider
5 down the hallway saying, whoa, whoa, I'm just here for
6 birth control. And see if her eyes tell you that she's
7 intimidated.

8 Even Gallagher's own words tell you that he
9 knows what the point is. He says on one recording, we're
10 here with others, we're sitting blocking the door,
11 standing in this very crowded portion of the hallway
12 facilitating the rescue. Having all of those people
13 there was part of the plan, part of the conspiracy to
14 intimidate and oppress these patients and the employees.

15 I'd like to talk a little bit more about the
16 fact that these defendants weren't yelling or being
17 violent. What's charged here is nonviolent. It doesn't
18 matter that they're not being violent. During some of
19 the closings they were described as unwelcome, a nuisance
20 and annoying. That is not -- you've seen these videos.
21 That's not an accurate description of what happened.
22 They are preventing and blocking people from accessing
23 reproductive healthcare. That is oppressive and
24 intimidating.

25 Again, also, they were not harming anyone,

1 but something is not peaceful if laws are broken. That's
2 truly not the definition of peace. This lasted two and a
3 half hours while the defendants ignored law enforcement
4 commands to leave, to get out of the way, to move, to let
5 patients inside. Just because a defendant is polite does
6 not mean they didn't break a law. A bank robber can say
7 please and thank you and still rob a bank. Something can
8 be quiet and still be illegal.

9 So don't let that distract you because, in
10 fact, that was part of the plan because they didn't want
11 a huge police response. They wanted to be able to stall
12 police. If there was violence, if there was a lot of
13 noise, it would have triggered a bigger police response,
14 and they did not want that. They wanted this to last as
15 long as possible.

16 Ms. Bell argued that this was, in fact, a
17 rally to get more attention, that -- but you've watched
18 all of these videos. You know that that could easily be
19 done outside if that was actually the purpose, if what
20 they wanted was truly attention. They didn't need to
21 shut down the clinic to get that purpose done.

22 A lot of the different defense counsels also
23 argued that the goal ultimately was not unlawful. But
24 you know that, you've watched the videos. You hear them
25 discussing being arrested. You've seen the Facebook

1 discussions about whether or not someone's willing to be
2 arrested. They were intending to violate the law. They
3 understood they were violating the law, and they did
4 violate the law.

5 Mr. Haymaker and a few other defense counsel
6 said that this conspiracy is about what happened before
7 March 5, and that's not accurate. A conspiracy -- you
8 can look at the whole period of the conspiracy. So it
9 includes what happened on March 5. The common
10 understanding that Mr. Boynton talked about on his
11 closing, that can be reached at any point during the
12 existence of the conspiracy.

13 So what happened that day is very much a
14 part of the agreement. It doesn't just have to be agreed
15 on beforehand. It can be agreed on in the moment.

16 When the Titans football team -- I guess
17 they're not taking the field, so let's say the Chiefs
18 take the field, everybody has a different job to do,
19 right. There's a quarterback, there's a tight end, and
20 during a play only three hands may actually touch the
21 ball.

22 But everyone on the field has a job to help
23 that play succeed. And it's not just what's happening on
24 the field. It's what's happening on the sidelines as
25 well. You've got coordinators, you've got trainers.

1 Everybody is helping the team to succeed. And no one's
2 showing up after a play and claiming that they were just
3 passing by because the play went badly or something like
4 that. They each had a role to play in that game, and
5 each of those defendants had a role to play in this
6 blockade. They're all accountable for it as part of the
7 conspiracy and they're all accountable for it as aiders
8 and abettors or actual blockaders.

9 Caroline Davis explained to you during her
10 testimony that everyone mattered. All these different
11 roles mattered. And in just days after the conspiracy,
12 she actually posted basically the same thing on Facebook.
13 Exhibit 18 she said: As much as people are needed to
14 block the doors, people are needed on the other side of
15 things to help from outside jail and the other parts of
16 rescue.

17 She was saying in days after, she said it on
18 the stand, everybody mattered in the conspiracy because
19 this -- doing something so big for so long needed all
20 these different players and their help and their
21 agreement.

22 There's no way that any of these defendants
23 or the other blockaders could have accomplished this
24 blockade by themselves or independently. It took all of
25 them to create the atmosphere of intimidation. It took

1 all of them to oppress these patients and the clinic
2 employees. That's why they went to the trouble of
3 recruiting people, making sure the date worked for
4 everyone, arranging housing, having meetings beforehand
5 to talk about what was going to happen.

6 Again, this agreement is an agreement
7 generally. You don't have to be agreeing to personally
8 block the door. You have to be agreeing to generally
9 stop people from accessing their healthcare, to
10 intimidate them or oppress them from accessing that
11 right. So it doesn't matter if someone in the moment
12 changes their mind and said, no, I'm actually not going
13 to block the door today or I've changed my mind, I think
14 I want to be a blowfish.

15 All of those people acting together, whether
16 they're sitting in front of the door or standing in the
17 hallway, as long as they've agreed to do this and that is
18 the end purpose, they are guilty. All of those
19 defendants you have had ample proof that that is what
20 they were doing on March 5, 2021.

21 Mr. Haymaker argued that we don't know what
22 the agreement ultimately was, but we do. Look at the
23 text messages that you've seen, the Facebook messages.
24 Recall Davis describing, for example, Boyd's role leading
25 up to the blockade. Mr. Haymaker described it as a loose

1 agreement between acquaintances to engage in rescue. But
2 really, you know that's not what this is. You've seen
3 from the proof, what they intended to happen was stop as
4 many patients as possible from accessing that clinic.

5 There's also a lot of argument that the
6 ultimate aim was interposition or something about, you
7 know, saving -- I think it was something along the lines
8 of talking to the patients, things like that. Did any
9 patient who said I don't want to talk to you or this is
10 not welcome get inside of that clinic? No. Because
11 ultimately whether or not a patient wanted to be talked
12 to didn't matter because the ultimate goal was to close
13 down that clinic as long as possible.

14 In Exhibit 16 you can see the woman says,
15 I'm not here for an abortion, I'm here for birth control,
16 and that doesn't change anything. There is no different
17 conversation, nothing goes differently. It's just like
18 with Melissa Ashby where they've also assumed that she's
19 there for an abortion. They do not let her in. Caroline
20 Davis told you no matter what someone said, they were not
21 going to let any patients in the clinic that day.
22 Because that was the purpose. That was the purpose of
23 this conspiracy.

24 This wasn't an offer of help. This wasn't
25 just a conversation. And conversations might have been

1 happening. In fact, Caroline Davis told you that the
2 sidewalk counselors were part of the plan. They shut
3 down the doors, and the hope was as the women walked out
4 that they would be encountered by sidewalk counselors and
5 perhaps a conversation could happen, but that was not the
6 ultimate purpose or goal of this. The ultimate purpose
7 and goal was to shut down the clinic.

8 The ultimate goal was, yes, getting between
9 the woman and the clinic and stopping the patient. And
10 Gallagher himself said it over and over again. When
11 you -- if you need to, you can go back and you can watch
12 all of the exhibits that you've watched. Gallagher says,
13 we have two doors to block. He says, we're sitting
14 blocking the door. He's telling you what they're doing.
15 They're blocking the doors. They're not going to let
16 anybody in.

17 Now, talking about the actual act of
18 blocking, there was a little bit of argument about that
19 there was not actually an obstruction of the doors.
20 You've seen the videos. You've seen the exhibits. I'd
21 like to put up Exhibit 4A. That's Exhibit 4A. Just a
22 brief moment in time from the two and a half hours that
23 the defendants were there. That's a wall of humans.

24 Nicko Ashby said he would have to be a
25 wrecking ball to get through that. That is not what is

1 required of people in order to access healthcare. They
2 don't need to physically push through other people so
3 that they can get to the doors of a clinic. The doors
4 were blocked. You can -- when you're back deliberating
5 you can comfortably feel there's multiple images
6 throughout the recordings of the doors being blocked.

7 And in terms of interference, you don't have
8 to be mean to accomplish this. It's fine to be polite.
9 It's simply interference by physical obstruction. Watch
10 the videos. Are they interfering with Patient A and the
11 clinic workers? Yes, they are.

12 You saw footage of Vaughn in the semi-circle
13 blocking people. You saw Gallagher blocking the door and
14 talking about having two doors to block. You saw Zastrow
15 blocking the employee entrance when Sarah Flowers tried
16 to get back in. You saw Idoni standing next to the main
17 entrance for almost the whole blockade. You saw Green on
18 his own recording move into place when Officer Schneider
19 tries to escort that woman down the hallway.

20 And if they weren't directly blocking, were
21 they helping to commit the crime or encouraging someone
22 else to block the doors, either before or during the
23 blockade? And did they intend to help commit and
24 encourage the blockade? Absolutely. Each of these
25 defendants did, including Boyd; therefore, each is guilty

1 of Count Two.

2 Okay. Just want to talk briefly about
3 Caroline Davis. The United States didn't pick her as a
4 witness. These defendants did because they decided to
5 conspire with her to participate in this blockade. They
6 asked her to join. They persuaded her to come. They
7 supported her in her decision to block the door, and they
8 helped her by filling the hallway, by delaying the police
9 response, making it last.

10 She sought out cooperation with the Middle
11 District of Tennessee after getting her offer here, after
12 getting separation from these defendants, and having
13 other people counsel her on what the best things were for
14 her.

15 There was some argument that perhaps she
16 made up the word blowfish, but listen to the recordings.
17 Mr. Gallagher himself is describing the role of all the
18 people in the hallway. He says, we've got a crowded
19 hallway and it's helping.

20 And she told you that the other
21 co-conspirators weren't going to move. How do you know
22 that they weren't going to move? Because they didn't
23 move at any point. They didn't let any patient in.

24 So as you go through -- I'm just going to
25 briefly walk through a couple points on the specific

1 defendants. Listen for things where the defendants are
2 admitting what they did. Gallagher, you'll hear him say,
3 today is not a protest, we expect to be arrested soon.
4 We have two doors to block. There's actually a clip
5 where he's basically describing the FACE Act and saying
6 that someone has blocked access to a clinic. He knows
7 exactly what he's doing and he's blocking the doors. And
8 he's agreeing with all of those people around him to make
9 sure that no patients can access that clinic.

10 Defendant Green brings his kids. He admits
11 on Facebook, we sat in front of the doors. He moved into
12 place when Schneider and the patient came down the
13 hallway creating a second line of defense in front of
14 Caroline Davis.

15 Mr. Russ argued that you didn't see evidence
16 of Green committing the crimes. And I would argue his
17 own videotapes are all evidence of him committing the
18 crime. You see him move into position to get onto the
19 ground, to stop that patient from coming down the hallway
20 with Corporal Schneider.

21 You've seen the Facebook communications
22 where people are trying to ensure that the Greens are
23 coming. You see his Facebook post afterward talking
24 about what he did. Look at his very first clip. It's
25 2A. He's talking about missing a signal. Him and

1 Caroline Davis, Davis said, I sent the signal. He said,
2 I didn't see it, but I was watching the live feed. So he
3 knows what's going on. That's part -- that's the
4 conspiracy. That's the agreement. That's the proof of
5 the agreement.

6 And what was his intent? Look at 2M. He
7 says, we have had -- we have had at least two -- three or
8 four girls who have come here to have their babies killed
9 and they have left the property and went downstairs.
10 That is exactly his purpose, he is part of the
11 conspiracy, and he is trying to oppress and intimidate
12 patients from accessing that clinic.

13 Mr. Russ argued that Green didn't block the
14 Ashbys specifically so that that means that he is not
15 guilty of Count No. Two. He certainly aided and abetted
16 it. He encouraged it. He blocked the employees from
17 getting to the clinic, and he blocked another patient.
18 So that's not correct. He is guilty of Count Two.

19 In terms of Idoni, Ms. Idoni, yeah, she does
20 not talk during the clips, but she talks in Facebook.
21 And you've seen all of those communications where she's
22 actively working to get as many people as possible.
23 She's out there, she's getting Green, she's getting Cal
24 Zastrow. She setting up housing, she's making all of
25 this come together.

1 Nothing in the statute requires talking.
2 It's about physical obstruction, which Idoni did. And
3 you know from these Facebook communications that she knew
4 exactly what she was agreeing to because she wanted to
5 make sure that these people that were being invited that
6 she didn't know were willing to be arrested. And
7 Gallagher agreed and said he would prequalify anyone.

8 Arrested. She was intending to violate the
9 law. She knew exactly what she was doing, exactly what
10 she was agreeing to.

11 In terms of Mr. Vaughn, you've seen the
12 clips where Gallagher describes what they're doing, that
13 they're stalling the police, it's a delay tactic and you
14 see him nodding his head. That's being livestreamed.
15 Gallagher is actually communicating with his followers.
16 Watch that clip if you need to.

17 Gallagher is communicating with the people
18 who are watching in realtime and implicates Vaughn in a
19 crime, and Vaughn nods his head. He doesn't say, whoa,
20 whoa, whoa, that's not what's happening. I'm acting on
21 behalf of the police. He nods.

22 And watch the other recordings. There's not
23 a moment where you see Vaughn tell anyone to leave,
24 contradict Gallagher or make any effort to hurry along
25 the blockade. Mr. Crampton said there's no evidence of

1 Vaughn's intent, and that is just not true. Exhibit 5,
2 right after the blockade is finally broken up, Vaughn did
3 an interview with the police -- I'm sorry, with the news.
4 And he said exactly what he and his co-conspirators did.
5 He said, we came into the building. We sat down at the
6 doors. That's how you know what's going on in his head.

7 And he was not helping the police. Before
8 the police even got there, he blocked Melissa Ashby from
9 entering the clinic. When Schneider walks down the
10 hallway with that patient, Vaughn says in Exhibit 16,
11 don't do this.

12 It doesn't matter that the police themselves
13 might have needed more time. The police responded the
14 way they did because of how these defendants acted, but
15 also because of what Vaughn and Gallagher did not
16 communicate to them. When Travis Watkins, that
17 negotiator, was testifying, you knew something that he
18 didn't. You knew that these defendants had been talking
19 about negotiations being a stall tactic.

20 Did you see his body language on the stand
21 when he learned that information, when he learned that
22 they were describing the negotiations as a stall tactic?
23 He was visibly uncomfortable, and it was absolutely news
24 to him. He didn't know about the blowfish strategy. He
25 didn't know about the handbill that was printed

1 beforehand, before negotiations had even begun, that said
2 that people were arrested. So he was not helping the
3 police. He was acting as an aider and abettor and a
4 co-conspirator in their efforts to keep this clinic shut
5 down. And his efforts were very successful. This went
6 on for two and a half hours.

7 Briefly, Mr. Boyd. Mr. Haymaker asked, how
8 did he help or encourage an obstruction? He brought his
9 kids who actually obstructed. He instructed his children
10 to interfere with Mrs. Ashby. He was the first point of
11 contact for patients. They come out of the elevator,
12 they see him. He finds out why they're there. He
13 communicated to both the blockaders, being his children,
14 and the people outside. You hear him on a phone call
15 calling downstairs to describe Nicko Ashby to someone
16 outside.

17 He himself intimidated Mrs. Ashby. She told
18 you that on the stand. And he livestreamed. And that
19 was the livestream that Dennis Green was watching when he
20 knew that the blockade had started and patients had
21 started appearing. So he did help Mr. Green knowing that
22 things were getting going and it was time to go upstairs.

23 And listen to some of his recordings. Those
24 are the ones in the one series, 1A, C, D and E. You know
25 he knows exactly what's happening. One, he says we don't

1 have any moms that we know have tried to come in yet. He
2 knows that what they're doing is intimidating. He says
3 the workers in the other -- other clinics, not even the
4 carefem clinic, the other clinics, are a bit stirred up
5 at this point. Did he leave when the police told him to?
6 Yes. But it was only after 20 officers came on the
7 scene.

8 The question isn't how long he was there,
9 but why he was there. He was there to aid and abet this
10 blockade and because he was conspiring with others. It's
11 absolutely true that he didn't block a door and that he
12 left when the police arrived in force, but this isn't a
13 trespassing case. It's a FACE act violation and it's a
14 conspiracy.

15 So those are the questions that you need to
16 ask yourselves, whether he took steps to help the goal of
17 the agreement, coming up with the idea for the wheelchair
18 for Eva Edl, coming up with the idea for people wearing
19 masks, livestreaming, promoting, spotting at the
20 elevator, coordinating the blockade, helping beforehand
21 for the blockade, he is guilty of both counts. His
22 motivation was not to persuade, but ultimately to
23 obstruct.

24 Calvin Zastrow, watch the videos. He
25 actually sits in front of a door. He's clearly

1 conspiring with others, and he admits himself, today is
2 not a protest. Mr. Crampton tried to argue that this was
3 a protest, but Mr. Vaughn's own co-conspirator statements
4 make it very clear that this was not a protest, it was
5 not a demonstration.

6 At the beginning of this trial during voir
7 dire when explaining your role as a juror, Mr. Parris
8 said that if you don't follow the rules, it all falls
9 apart, and he's absolutely right. And it applies to this
10 situation.

11 Imagine a four-way stoplight. A person
12 might not want to stop when the light turns red, but they
13 have to because that is the law. And if we don't and we
14 start ignoring laws, we all crash.

15 A number of lawyers have talked to you today
16 about reasonable doubt. A reasonable doubt is a doubt
17 based on reason and common sense. You have to apply your
18 reason and common sense. It's actually a fairly simple
19 idea. Apply your reason and common sense to what you've
20 seen and heard over the last few days.

21 I'm confident that when you do that, when
22 you apply your reason and common sense to the evidence
23 you've heard and the law that the Judge instructs you on,
24 that you will find the defendants guilty on all counts.
25 Thank you.

1 THE COURT: Thank you, Ms. Klopf.

2 All right. We're going to pass out the
3 instructions at this point. I'm going to give you the
4 instructions. I'll tell the spectators that no one is
5 allowed to come or go during the reading of the
6 instructions. So if you don't think you can hang in
7 there for another, I don't know, 45 minutes, perhaps, you
8 better leave because you will not be allowed to leave
9 during instructions.

10 JURY CHARGE

11 THE COURT: Members of the jury, these will
12 be your individual copies of the instructions. You may
13 circle, highlight, star, whatever you want to do with
14 them. And you'll be able to take them back with you to
15 the jury room along with your notes when it's time to
16 deliberate.

17 Why don't we all take a, what is it,
18 seventh-inning stretch? Whatever the stretch is. If you
19 want to stand up and just kind of wake up your body a
20 little bit before we get into a very important part of
21 the trial, the instructions.

22 So please follow along with me and don't
23 read ahead. Members of the jury, now it is time for me
24 to instruct you about the law that you must follow in
25 deciding this case. I will start by explaining your

1 duties and the general rules that apply in every criminal
2 case. Then I will explain the elements or parts of the
3 crimes that the defendants are accused of committing.
4 Then I will explain some rules that you must use in
5 evaluating particular testimony and evidence. And last I
6 will explain the rules that you must follow during your
7 deliberations in the jury room and the possible verdicts
8 that you may return. Please listen very carefully to
9 everything I say.

10 You have two main duties as jurors. The
11 first one is to decide what the facts are from the
12 evidence that you saw and heard here in court. Deciding
13 what the facts are is your job, not mine. And nothing
14 that I have said or done during this trial was meant to
15 influence your decision about the facts in any way.

16 Your second duty is to take the law that I
17 give you, apply it to the facts, and decide if the
18 government has proved the defendant -- any of the
19 defendants guilty beyond a reasonable doubt. It is my
20 job to instruct you about the law, and you are bound by
21 the oath that you took at the beginning of the trial to
22 follow the instructions I give you, even if you
23 personally disagree with them. This includes the
24 instructions I gave you before and during the trial and
25 these instructions. All the instructions are important,

1 and you should consider them together as a whole.

2 The lawyers have talked about the law during
3 their arguments, but if what they said is different from
4 what I say, you must follow what I say. What I say about
5 the law controls.

6 Perform these duties fairly. Do not let any
7 bias, sympathy or prejudice that you may feel toward one
8 side or the other influence your decision in any way.

9 As you know, the defendants have pleaded not
10 guilty to the crimes charged in the indictment. The
11 indictment is not any evidence at all of guilt. It is
12 just the formal way that the government tells the
13 defendant what crimes he or she is accused of committing.
14 It does not even raise any suspicion of guilt.

15 Instead, a defendant starts the trial with a
16 clean slate, with no evidence at all against him, and the
17 law presumes that he is innocent. This presumption of
18 innocence stays with him unless the government presents
19 evidence here in court that overcomes the presumption and
20 convinces you beyond a reasonable doubt that he is
21 guilty.

22 This means that a defendant has no
23 obligation to present any evidence at all or to prove to
24 you in any way that he is innocent. It is up to the
25 government to prove that he is guilty, and this burden

1 stays on the government from start to finish. You must
2 find each defendant not guilty unless the government
3 convinces you beyond a reasonable doubt that he is
4 guilty.

5 The government must prove every element of
6 the crimes charged beyond a reasonable doubt. Proof
7 beyond a reasonable doubt does not mean proof beyond all
8 possible doubt. Possible doubts or doubts based purely
9 on speculation are not reasonable doubts. A reasonable
10 doubt is a doubt based on reason and common sense. It
11 may arise from the evidence, the lack of evidence or the
12 nature of the evidence.

13 Proof beyond a reasonable doubt means proof
14 which is so convincing that you would not hesitate to
15 rely and act on it in making the most important decisions
16 in your own lives. If you are convinced that the
17 government has proved a defendant guilty beyond a
18 reasonable doubt, say so by returning a guilty verdict.
19 If you are not convinced, say so by returning a not
20 guilty verdict.

21 You must make your decision based only on
22 the evidence that you saw and heard here in court. Do
23 not let rumors, suspicions or anything else you may have
24 seen or heard outside of court influence your decision in
25 any way.

1 The evidence in this case includes only what
2 the witnesses said while they were testifying under oath,
3 the exhibits that I allowed into evidence, the
4 stipulations that the lawyers agreed to and any facts
5 that I may have judicially noticed. Nothing else is
6 evidence. The lawyers' statements and arguments are not
7 evidence. Their questions and objections are not
8 evidence. My legal rulings are not evidence. And my
9 comments and questions are not evidence.

10 During the trial I did not let you hear the
11 answers to some of the questions that the lawyers asked.
12 I may also have ruled that you could not see some of the
13 exhibits that the lawyers wanted you to see. And I may
14 have ordered you to disregard things that you saw or
15 heard or struck things from the record. You must
16 completely ignore all of these things. Do not even think
17 about them.

18 Do not speculate about what a witness might
19 have said or what an exhibit might have shown. These
20 things are not evidence, and you are bound by your oath
21 not to let them influence your decision in any way. Make
22 your decision based only on the evidence as I have
23 defined it here and nothing else.

24 You are to consider only the evidence in the
25 case, but you should use your common sense in weighing

1 the evidence. Consider the evidence in light of your
2 everyday experience with people and events and give it
3 whatever weight you believe it deserves. If your
4 experience tells you that certain evidence reasonably
5 leads to a conclusion, you are free to reach that
6 conclusion. In our lives we often look at one fact and
7 conclude from it that another fact exists. In law we
8 call this an inference.

9 A jury is allowed to make reasonable
10 inferences unless otherwise instructed. Any inferences
11 you make must be reasonable and must be based on the
12 evidence in the case. The existence of an inference does
13 not change or shift the burden of proof from the
14 government to the defendant.

15 Now, some of you have heard the terms direct
16 evidence and circumstantial evidence. Direct evidence is
17 simply evidence like the testimony of an eyewitness,
18 which, if you believe it, directly proves a fact. If a
19 witness testified that he saw it raining outside and you
20 believed him, that would be direct evidence that it was
21 raining.

22 Circumstantial evidence is simply a chain of
23 circumstances that indirectly proves a fact. If someone
24 walked into the courtroom wearing a raincoat covered with
25 drops of water and carrying a wet umbrella, that would be

1 circumstantial evidence from which you could conclude
2 that it was raining.

3 It is your job to decide how much weight to
4 give the direct and circumstantial evidence. The law
5 makes no distinction between the weight that you should
6 give to either one nor does it say that one is any better
7 evidence than the other. You should consider all of the
8 evidence, both direct and circumstantial evidence, and
9 give it whatever weight you believe it deserves.

10 Another part of your job as jurors is to
11 decide how credible or believable each witness was. It
12 is up to you to decide if a witness's testimony was
13 believable and how much weight you think it deserves.
14 You are free to believe everything that a witness said or
15 only part of it or none of it at all. But you should act
16 reasonably and carefully in making these decisions.

17 Let me suggest some things for you to
18 consider in evaluating each witness's testimony. Ask
19 yourself if the witness was able to clearly see or hear
20 the events. Sometimes even an honest witness may not
21 have been able to see or hear what was happening and may
22 make a mistake.

23 Ask yourself how good the witness's memory
24 seemed to be. Did the witness seem able to accurately
25 remember what happened?

1 Ask yourself if there was anything else that
2 may have interfered with the witness's ability to
3 perceive or remember the events.

4 Ask yourself how the witness acted while
5 testifying. Did the witness appear honest or did the
6 witness appear to be lying?

7 Ask yourself if the witness had any
8 relationship to the government or a defendant or anything
9 to gain or lose from the case that might influence the
10 witness's testimony.

11 Ask yourself if the witness had any bias or
12 prejudice or reason for testifying that might cause the
13 witness to lie or to slant the testimony in favor of one
14 side or the other.

15 Ask yourself if the witness testified
16 inconsistently while on the stand or if the witness said
17 or did something or failed to say or do something at any
18 other time that is inconsistent with what the witness
19 said while testifying.

20 If you believe that the witness was
21 inconsistent, ask yourself if this makes the witness's
22 testimony less believable. Sometimes it may, other times
23 it may not. Consider whether the inconsistency was about
24 something important or about some unimportant detail.

25 Ask yourself if it seemed like an innocent

1 mistake or it seemed deliberate. And ask yourself how
2 believable the witness's testimony was in light of all
3 the other evidence. Was the witness's testimony
4 supported or contradicted by other evidence that you
5 found believable? If you believe that a witness's
6 testimony was contradicted by other evidence, remember,
7 again, people sometimes forget things and that even two
8 honest people who witness the same event may not describe
9 it exactly the same way.

10 These are only some of the things that you
11 may consider in deciding how believable each witness was.
12 You may also consider other things that you think sheds
13 light on the witness's believability. Use your common
14 sense and your everyday experience in dealing with other
15 people, and then decide what testimony you believe and
16 how much weight you think it deserves.

17 One more point about the witnesses.
18 Sometimes jurors wonder if the number of witnesses who
19 testified makes any difference. Do not make any
20 decisions based only on the number of witnesses who
21 testified. What is more important is how believable the
22 witnesses were and how much weight you think their
23 testimony deserved. Concentrate on that, not the
24 numbers.

25 There's one more general subject I want to

1 talk to you about before I begin explaining the elements
2 of the crimes charged. The lawyers for both sides
3 objected to some of the things that were said or done
4 during the trial. Do not hold that against either side.
5 The lawyers have a duty to object whenever they think
6 that something is not permitted by the Rules of Evidence.
7 Those rules are designed to make sure that both sides
8 receive a fair trial.

9 And do not interpret my rulings on their
10 objections as any indication of how I think the case
11 should be decided. My rulings were based on the Rules of
12 Evidence, not on how I feel about the case. Remember
13 that your decision must be based only on the evidence
14 that you saw and heard here in court.

15 Next I want to say a word about the dates
16 mentioned in the indictment. The indictment charges that
17 the crimes happened on or about certain dates. The
18 government does not have to prove that the crimes
19 happened on that exact date. But the government must
20 prove that the crimes happened reasonably close to those
21 dates.

22 Although the indictment charges that the
23 statutes were violated by acts that are connected by the
24 word "and," it is sufficient if the evidence establishes
25 a violation of the statute by any one of the acts charged

1 beyond a reasonable doubt.

2 That concludes the part of my instructions
3 explaining your duties and the general rules that apply
4 in every criminal case. In a moment I will explain the
5 elements of the crimes each defendant is accused of
6 committing, but before I do that, I want to emphasize
7 that the defendants have all been charged with two
8 crimes. The number of charges is no evidence of guilt,
9 and this should not influence your decision in any way.

10 And in our system of justice, guilt or
11 innocence is personal and individual. It is your duty to
12 separately consider the evidence against each defendant
13 on each charge and to return a separate verdict for each
14 one of them. For each one you must decide whether the
15 government has presented proof beyond a reasonable doubt
16 that a particular defendant is guilty of a particular
17 charge.

18 Your decision on any one defendant or
19 charge, whether it is guilty or not guilty, should not
20 influence your decision on any of the other defendants or
21 charges. In the interest of simplicity and brevity, I am
22 using throughout these instructions the pronoun he to
23 refer to the defendants, but as you know, a woman is also
24 a defendant in this case.

25 Now, I want to read to you the indictment

1 wording for Count One, the conspiracy charge. The
2 indictment reads: From on or about February 10, 2021, to
3 on or about March 5, 2021, in the Middle District of
4 Tennessee and elsewhere, defendants Chester Gallagher,
5 Heather Idoni, Calvin Zastrow, Coleman Boyd, Caroline
6 dives, Paul Vaughn and Dennis Green --

7 MR. PARRIS: Judge, I think you need to tell
8 them they don't have that. They're looking for that.

9 THE COURT: You don't have that. Just
10 listen, sorry.

11 ...Dennis Green did willfully combine,
12 conspire and agree with one another and with other
13 persons known and unknown to the grand jury to injure,
14 oppress, threaten and intimidate patients and employees
15 of the clinic in the free exercise and enjoyment of the
16 rights and privileges secured to them by the laws of the
17 United States, namely, the right to obtain and seek to
18 obtain and to provide and seek to provide reproductive
19 health services as provided by Title 18 United States
20 Code Section 248(c) in violation of Title 18
21 United States Code Section 241.

22 That's the wording of Count One.

23 The wording of Count Two is: On or about
24 March 5, 2021, in the Middle District of Tennessee and
25 elsewhere, the defendants, Chester Gallagher, Heather

1 Idoni, Calvin Zastrow, Coleman Boyd, Caroline Davis, Paul
2 Vaughn and Dennis Green, aiding and abetting one another,
3 did by force, threat of force and physical obstruction
4 intentionally injure, intimidate and interfere with and
5 attempt to injure, intimidate and interfere with
6 Patient A, that's Mrs. Ashby, Employee A, that is
7 Ms. Flowers, and the other employees of the clinic
8 because Ms. Ashby was obtaining and the clinic was
9 providing reproductive health services, all in violation
10 of Title 18 United States Code Section 248(a)(1) and
11 (a)(2) -- and (2).

12 Now, nature of the offense charged in
13 Count One. We're back to page 15. Count One of the
14 indictment charges each of the defendants with having
15 committed a criminal conspiracy against rights between
16 February 10 and March 5, 2021. For you to find a
17 defendant guilty of this crime, you must be convinced
18 that the government has proved each and every one of the
19 following elements beyond a reasonable doubt:

20 First, that the defendant joined an
21 agreement with one or more persons either at the time the
22 agreement was reached or at some later time while the
23 agreement was still in effect;

24 Second, that the aim of the agreement was to
25 oppress, threaten or intimidate a person in the free

1 exercise or enjoyment of any right or privilege secured
2 to that person by the laws of the United States;

3 Third, that at the time the defendant joined
4 in the agreement or understanding, the defendant intended
5 to oppress, threaten or intimidate a person in the free
6 exercise or enjoyment of any right or privilege secured
7 to that person by the laws of the United States.

8 You must consider each defendant separately
9 in this regard. It is, however, not up to you to
10 determine whether or not any particular right is one that
11 has been secured by the laws of the United States. That
12 is a purely legal question. You should consider these
13 allegations with the understanding that as a matter of
14 law, the right to obtain or provide reproductive health
15 services without interference through physical
16 obstruction is a right secured by the laws of the
17 United States. I will define interference and physical
18 obstruction later in these instructions.

19 In Count One the government is not required
20 to prove that conspirators were successful in
21 accomplishing the objective of the conspiracy. Keep in
22 mind that Count One of the indictment charges a
23 conspiracy and not that any offense, including the
24 offense described in Count Two, was ultimately committed.

25 If you are convinced that the government has

1 proved all of these elements beyond a reasonable doubt as
2 to a defendant, you must return a guilty verdict on this
3 charge against that defendant. If you have a reasonable
4 doubt about any one of these elements, then you must find
5 that defendant not guilty on this charge.

6 I will now explain each of these elements in
7 more detail. Existence of and membership in a
8 conspiracy, Count One. The first element of Count One
9 requires the government to prove beyond a reasonable
10 doubt that two or more persons came to an agreement or
11 mutual understanding and that the defendant voluntarily
12 joined the agreement or mutual understanding and had a
13 general understanding of its unlawful purpose, even if a
14 defendant played only a minor part in the plan.

15 A defendant may be a conspirator without
16 knowing all of the details of the unlawful plan or the
17 names and identities of all the other alleged
18 conspirators. A defendant need not know that the object
19 of the conspiracy violated any particular law.

20 But proof that a defendant simply knew about
21 a conspiracy or was present at times or associated with
22 members of the group is not enough, even if he approved
23 of what was happening or did not object to it.

24 Similarly, just because a defendant may have
25 done something that happened to help a conspiracy does

1 not necessarily make him a conspirator. A defendant's
2 participation in a conspiracy can be proved by direct or
3 circumstantial evidence. A common purpose and plan may
4 be inferred from the totality of the circumstances,
5 including the defendant's statements, actions and
6 reactions to those circumstances. You may but are not
7 required to draw the inference that a defendant intended
8 all of the consequences that a person standing in like
9 circumstances and possessing like knowledge should
10 reasonably have expected to result from any intentional
11 act or conscious omission.

12 The second element of Count One requires the
13 government to prove beyond a reasonable doubt that the
14 agreement the defendant joined had as its objective or
15 purpose to oppress, threaten or intimidate a person in
16 the free exercise or enjoyment of any right or privilege
17 secured to that person by the laws of the United States.

18 If you find that the defendant entered an
19 agreement solely for the purpose of some other lawful
20 activity, the agreement is not a criminal conspiracy,
21 even if such lawful agreement produced some incidental
22 effect on the rights of otherwise. The government does
23 not have to prove that all of the defendants named in the
24 indictment devised the plan.

25 The government need only show that the

1 defendant you are considering agreed on the essential
2 nature of the plan and not that the defendant came up
3 with the plan or that he agreed on the details of the
4 criminal scheme. The government also does not have to
5 prove that there was a formal agreement or plan in which
6 everyone involved sat down and worked out together the
7 details. It is enough that the government prove beyond a
8 reasonable doubt that there was a common understanding
9 among those who were involved to commit the crime charged
10 in the indictment.

11 A defendant's knowledge can be proved
12 indirectly by facts and circumstances that lead to a
13 conclusion that he knew the conspiracy's main purpose.
14 But it is up to the government to convince you that such
15 facts and circumstances existed in this particular case.

16 The third element of Count One requires the
17 government to prove that the defendant acted willfully
18 and that the defendant's intent in joining the conspiracy
19 was to oppress, threaten or intimidate a person in the
20 free exercise or enjoyment of any right or privilege
21 secured to that person by the laws of the United States.

22 You are instructed that the right to obtain
23 or provide reproductive health services without
24 interference through physical obstruction is a right
25 secured by the laws of the United States. I will later

1 define for you the term reproductive health services.

2 The word willfully means that the act was
3 committed purposely with a specific intent to do
4 something the law forbids. However, it is not necessary
5 for you to find that the defendant in question or any
6 other conspirator was thinking in legal terms or that
7 they knew that their action was criminal. You must
8 consider each defendant separately in this regard.

9 Some of the people who may have been
10 involved in the events described in Count One of the
11 indictment are not on trial here. This does not matter.
12 There's no requirement that all members of a conspiracy
13 be charged and prosecuted in one proceeding.

14 Now, Count Two. Count Two of the indictment
15 charges the defendants with violating Title 18 United
16 States Code Section 248(a)(1), the Freedom of Access to
17 Clinic Entrances, in other words, FACE Act, and for
18 violating the FACE Act either personally or as an aider
19 and abettor under Title 18 USC Section 2.

20 In order for you to find a defendant guilty
21 of this charge, the government must prove each of the
22 following three elements beyond a reasonable doubt:

23 First, that the defendant engaged in
24 physical obstruction;

25 Second, that the defendant, by his physical

1 obstruction, intentionally interfered with Melissa Ashby
2 or the employees of the clinic, or the defendant
3 attempted to do so;

4 And third, that the defendant acted as he
5 did because Melissa Ashby was obtaining or the clinic was
6 providing reproductive health services.

7 If you are convinced that the government has
8 proved each of these elements beyond a reasonable doubt
9 as to any defendant, say so by returning a guilty verdict
10 on this charge as to that defendant. If you have a
11 reasonable doubt about any one of these elements, then
12 you must find that defendant not guilty of this charge.

13 I will now explain each of these elements in more detail.

14 The first element of the FACE Act violation
15 charged in Count Two requires the government to prove
16 beyond a reasonable doubt that the defendant engaged in
17 physical obstruction. The term physical obstruction is
18 defined as rendering impassable an entrance to or exit
19 from a facility that provides reproductive health
20 services or rendering passage to or from such a facility
21 unreasonably difficult or hazardous.

22 Merely making the approach to health
23 facilities unpleasant or emotionally difficult without
24 rendering an entrance or exit impassable or rendering
25 passage to or from the facility unreasonably difficult or

1 hazardous does not constitute physical obstruction.

2 The second element of the FACE Act violation
3 charged in Count Two requires the government to prove
4 either that the defendant by his physical obstruction
5 intentionally interfered with Melissa Ashby or the
6 employees of the clinic or that the defendant attempted
7 to do so.

8 It is often difficult to establish intent
9 with direct evidence because there is no way for one
10 person to know what another person is actually thinking;
11 however, as with any other question that has been
12 submitted to you, you may also consider circumstantial
13 evidence and inferences based on that evidence.

14 You may, for example, infer the defendant's
15 intent from the surrounding circumstances. This includes
16 any statement made or acts done or omitted by a defendant
17 and all other facts and circumstances received in
18 evidence that indicate the defendant's intent or
19 knowledge. You may but are not required to infer that
20 the defendant intended the natural and probable
21 consequences of acts knowingly done. It is entirely up
22 to you to decide what facts to find from the evidence
23 received during this trial and what inferences to draw
24 from that evidence.

25 The term "interfere with" means to restrict

1 a person's freedom of movement. To find that the
2 defendant attempted to interfere with Melissa Ashby or
3 clinic employees by physical obstruction, the government
4 must prove that the defendant actually intended to
5 interfere with Melissa Ashby or clinic employees by
6 physical obstruction and that the defendant intentionally
7 performed an act that constituted a substantial step
8 towards interfering with Melissa Ashby or clinic
9 employees by physical obstruction. Mere preparation is
10 insufficient.

11 If you find that the defendant acted
12 voluntarily and purposely to interfere with Melissa
13 Ashley or clinic employees by physical obstruction or
14 that the defendant attempted to do so, rather than acting
15 inadvertently or by mistake, then you may find this
16 element of the offense proved.

17 The third element of the 248(a)(1) offense
18 charged in Count Two requires the government to prove
19 that the defendant acted as he did because Melissa Ashby
20 was obtaining or the clinic employees were providing
21 reproductive health services.

22 "Reproductive health services" means
23 reproductive health services provided in a hospital,
24 clinic, physician's office or other facility and includes
25 medical, surgical, counseling or referral services

1 relating to the human reproductive system, including
2 services relating to pregnancy or the termination of a
3 pregnancy. A provider of reproductive health services
4 includes any staff member who is an integral part of a
5 business where reproductive health services are provided.

6 If you find that the clinic employees were
7 working as staff members of a facility providing
8 reproductive health services, then you may find that they
9 provide reproductive healthcare. If determining whether
10 the government has proved that a defendant acted as he
11 did because Melissa Ashby was obtaining or the clinic
12 employees were providing reproductive health services,
13 you may consider statements made or language used by a
14 defendant, the circumstances surrounding the alleged
15 offense and all other evidence that may shed light on the
16 defendant's motives.

17 So long as Melissa Ashby's status as a
18 reproductive health services patient or the clinic
19 employee's role as reproductive health services providers
20 was a but for cause of the defendant's conduct, that is
21 enough to satisfy the third element. A but for cause
22 does not mean the sole cause or even the primary cause.

23 You must find that the defendant would not
24 have acted as he did had Melissa Ashby not been obtaining
25 reproductive healthcare or had the clinic not been

1 providing it. Therefore, you may find that the third
2 element has been met even if you find that the defendant
3 also had other additional reasons for doing what he did.

4 Let me ask you to correct one typo. That
5 bottom paragraph, the first line, so long as Melissa
6 Ashby, that should be a possessive. Melissa Ashby's,
7 apostrophe S, status. That's a typo.

8 Now, aiding and abetting. For you to find
9 any defendant guilty of violating the FACE Act, it is not
10 necessary for you to find that he personally committed
11 the crime. You may also find him guilty if he
12 intentionally helped or encouraged someone else to commit
13 the crime. A person who does this is called an aider and
14 abettor.

15 For you to find a defendant guilty of
16 violating the FACE Act as an aider and abettor, you must
17 be convinced that the government has proved each and
18 every one of the following elements beyond a reasonable
19 doubt:

20 First, that the crime of violating the FACE
21 Act was committed;

22 Second, that the defendant helped to commit
23 the crime or encouraged someone else to commit the crime
24 either before or during the commission of the crime;

25 And third, that the defendant intended to

1 help commit or encourage the crime.

2 Proof that the defendant may have known
3 about the crime, even if he was there when it was
4 committed, is not enough for you to find him guilty. You
5 can consider this in deciding whether the government has
6 proved that he was an aider and abettor. Without more,
7 it is not enough. What the government must prove is that
8 the defendant did something to help the crime with the
9 intent that the crime be committed.

10 That concludes the part of my instructions
11 explaining the elements of the crimes charged. Next I
12 will explain some rules that you must use in considering
13 some of the testimony and evidence. It is -- a defendant
14 has an absolute right not to testify or present evidence.

15 The fact that a defendant did not testify or
16 present any evidence cannot be considered by you in any
17 way. Do not even discuss it in your deliberations.
18 Remember, it is up to the government to prove each
19 defendant guilty beyond a reasonable doubt. It is not up
20 to the defendant to prove that he or she is innocent.

21 You have heard the testimony of Caroline
22 Davis. You have also heard that she was involved in the
23 same crime that the defendants are charged with
24 committing. You should consider Caroline Davis's
25 testimony with more caution than the testimony of other

1 witnesses. Do not convict a defendant based on the
2 unsupported testimony of such a witness, standing alone,
3 unless you believe her testimony beyond a reasonable
4 doubt. The fact that Caroline Davis has pleaded guilty
5 to a crime is not evidence that a defendant is guilty,
6 and you cannot consider this against a defendant in any
7 way.

8 You heard some video-recorded conversations
9 that were received in evidence, and you were given some
10 written transcripts of those video recordings. Keep in
11 mind that the transcripts are not evidence. You will not
12 have them back in the jury room. They were given to you
13 only as a guide to help you follow what was being said.

14 The recordings themselves are the evidence.
15 If you noticed any differences between what you heard on
16 the recordings and what you read in the transcripts, you
17 must rely on what you heard, not what you read. And if
18 you could not hear or understand certain parts of the
19 recordings, you must ignore the transcripts as far as
20 those parts are concerned.

21 During the trial you heard -- you saw and
22 heard summary evidence in the form of charts by the FBI
23 agent who testified. These summaries were admitted in
24 evidence, in addition to the material they summarized
25 because they may assist you in understanding the evidence

1 that has been presented. But the summaries themselves
2 are not evidence of the material they summarize and are
3 only as valid and reliable as the underlying material
4 they summarize.

5 That concludes the part of my instructions
6 explaining the rules for considering some of the
7 testimony and evidence. Now let me finish up by
8 explaining some things about your deliberations in the
9 jury room and your possible verdicts.

10 The first thing you should do in the jury
11 room is choose someone to be your foreperson. This
12 person will help to guide your discussions and will speak
13 for you here in court. Once you start deliberating, do
14 not talk to the jury officer or to me or to anyone else
15 except each other about the case.

16 If you have any questions or messages, you
17 must write them down on a piece of paper, sign them and
18 give them to the jury officer. The officer will give
19 them to me and I will respond as soon as I can. I may
20 have to talk to the lawyers about what you have asked, so
21 it may take me some time to get back to you. Any
22 questions or messages normally should be sent to me
23 through your foreperson.

24 One more thing about messages. Do not ever
25 write down or tell anyone, including me, how you stand on

1 your votes. For example, do not write down or tell
2 anyone you are split six-six or eight-four or whatever
3 your vote happens to be. That is to stay secret until
4 you are finished.

5 Remember you must make your decision based
6 only on the evidence that you saw and heard here in
7 court. During your deliberations you must not
8 communicate with or provide any information to anyone by
9 any means about this case. You may not use any
10 electronic device, or media or application such as a
11 telephone, cell phone or computer, the Internet, any
12 Internet service or any text or instant messaging
13 service, any Internet chat room, blog or website such as
14 Facebook or other similar electronic service to
15 communicate any information to anyone about this case or
16 to conduct any research about this case until I accept
17 your verdict.

18 In other words, you cannot talk to anyone on
19 the phone, correspond with anyone or electronically
20 communicate with anyone about this case. You can only
21 discuss the case in the jury room with your fellow jurors
22 during deliberations. I expect you will inform me if you
23 become aware of another juror's violation of these
24 instructions.

25 You may not use these electronic means to

1 investigate or communicate about the case because it is
2 important that you decide this case based solely on the
3 evidence presented in this courtroom, which has been
4 admitted under the Rules of Evidence and Criminal
5 Procedure that govern federal trials and to which you and
6 your fellow jurors have been exposed.

7 Basing your decision on information known
8 only by you and not your fellow jurors or the parties in
9 the case would unfairly and adversely impact the judicial
10 process. A juror who violates these restrictions
11 jeopardizes the fairness of these proceedings and a
12 mistrial could result, which would require the entire
13 trial process to start over again.

14 Your verdict, whether it is guilty or not
15 guilty, must be unanimous as to each count and as to each
16 defendant. To find a defendant guilty of a particular
17 count, every one of you must agree that the government
18 has overcome the presumption of innocence with evidence
19 that proves his guilt beyond a reasonable doubt.

20 To find him not guilty of a particular
21 count, every one of you must agree that the government
22 has failed to convince you beyond a reasonable doubt.
23 Either way, guilty or not guilty, your verdict must be
24 unanimous as to each count.

25 The attitude and conduct of jurors at the

1 beginning of their deliberations are very important. It
2 is rarely productive or good for a juror, upon entering
3 the jury room, to make an emphatic expression of his or
4 her opinion on the case or to announce a determination to
5 stand for a certain verdict. When a juror does that, his
6 or her sense of pride may be aroused and he may hesitate
7 to recede from an announced position even if shown that
8 it is wrong. Remember you are not partisans or advocates
9 in this matter, but judges.

10 Now that all the evidence is in and the
11 arguments are completed, you are free to talk about the
12 case in the jury room. In fact, it is your duty to talk
13 with each other about the evidence and to make every
14 reasonable effort you can to reach unanimous agreement.

15 Talk with each other, listen carefully and
16 respectfully to each other's views and keep an open mind
17 as you listen to what your fellow jurors have to say.
18 Try your best to work out your differences. Do not
19 hesitate to change your minds if you are convinced that
20 other jurors are right and that your original position
21 was wrong. But do not ever change your mind just because
22 other jurors see things differently or just to get the
23 case over with. In the end your vote must be exactly
24 that, your own vote.

25 It is important for you to reach unanimous

1 agreement but only if you can do so honestly and in good
2 conscience. No one will be allowed to hear your
3 discussions in the courtroom and no record will be made
4 of what you say. So you should all feel free to speak
5 your minds. Listen carefully to what the other jurors
6 have to say and then decide for yourself if the
7 government has proved any defendant guilty beyond a
8 reasonable doubt of either charge.

9 If you decide that the government has proved
10 a defendant guilty, then it will my job to decide what
11 the appropriate punishment should be. Deciding what the
12 punishment should be is my job, not yours. It would
13 violate your oaths as jurors to even consider the
14 possible punishment in deciding your verdict. Your job
15 is to look at the evidence and decide if the government
16 has proved any defendant guilty beyond a reasonable
17 doubt.

18 We have prepared a verdict form that you
19 will use in recording your verdict. And it will walk you
20 right through what you need to decide. Under Count One,
21 it says Count One of the indictment charges each
22 defendant with violating Title 18 United States Code
23 Section 241, conspiracy against rights. With respect to
24 the charge in Count One of the indictment, we find the
25 defendant, and then it lists all six defendants and under

1 each defendant's name it has a space to mark guilty or
2 not guilty. So you go through and decide that count as
3 to each of the six defendants. And you make a unanimous
4 finding as to whether they're guilty or not guilty of
5 Count One.

6 Then you move on to Count Two. And the
7 numbers of the defendants don't mean anything. Anyway.
8 All six defendants are listed separately.

9 Count Two of the indictment charges each
10 defendant with violating Title 18 United States Code
11 Section 248(a)(1) and (2), the Freedom of Access to
12 Clinic Entrances or the FACE Act and for violating the
13 FACE Act either personally or as an aider and abettor
14 under Title 18 United States Code Section 2.

15 With respect to the charge in Count Two of
16 the indictment, we find the defendant, and then it lists
17 all six defendants and, again, a space to mark guilty or
18 not guilty as to each of the six defendants.

19 If you decide that the government has proved
20 a charge against a defendant beyond a reasonable doubt,
21 say so by having your foreperson mark the appropriate
22 place on the form. If you decide that your foreperson --
23 if you decide that the government has not proved the
24 charge against him or her beyond a reasonable doubt, say
25 so by having your foreperson mark the appropriate place

1 on the form. Your foreperson should then sign the form,
2 put the date on it and tell the court security officer
3 that you're ready to return a verdict.

4 Remember that the defendants are only on
5 trial for the particular crimes charged in the
6 indictment. Your job is limited to deciding whether the
7 government has proved the crimes charged.

8 Also remember that whether anyone else
9 should be prosecuted and convicted for these crimes is
10 not a proper matter for you to consider. The possible
11 guilt of others is no defense to a criminal charge. Your
12 job is to decide if the government has proved these
13 defendants guilty. Do not let the possible guilt of
14 others influence your decision in any way.

15 Let me finish up by saying something I said
16 to you earlier. Nothing I have said or done during this
17 trial was meant to influence your decision in any way.
18 You decide for yourselves if the government has proved
19 any defendant guilty beyond a reasonable doubt. Remember
20 that if you elected to take notes during the trial, your
21 notes should be used only as memory aids. You should not
22 give your notes greater weight than your independent
23 recollection of the evidence.

24 You should rely upon your own independent
25 recollection of the evidence or lack of evidence and you

1 should not be unduly influenced by the notes of other
2 jurors. Notes are not entitled to any more weight than
3 the memory or impression of each juror. Whether you took
4 notes or not, each of you must form and express your own
5 opinion as to the facts of the case.

6 If it becomes necessary during your
7 deliberations to communicate with the Court, you may send
8 a note by the court security officer signed by your
9 foreperson or one or more members of the jury. No member
10 of the jury should even attempt to communicate with the
11 Court by any means other than a signed writing, and the
12 Court will never communicate with any member of the jury
13 on any subject touching the merits of the case otherwise
14 than in writing or orally here in open court.

15 Bear in mind also that you are never to
16 reveal to any person, not even to the Court, how you
17 stand numerically or otherwise on the questions before
18 you until after you have reached a unanimous verdict.

19 All right. Members of the jury, it's almost
20 5 o'clock. We're going to send you home at this point.
21 I want to reemphasize that you are not to talk about the
22 case with anyone or amongst yourselves. You are not to
23 do any research about anything or anyone connected to
24 this case. You are to ignore any news coverage.

25 You'll return at 9 o'clock in the morning.

1 We will bring you into court and then we will excuse you
2 to begin your deliberations, at which point you will take
3 your notes and your individual copies of the instructions
4 back to the jury room. We will send all of the evidence
5 back, including all the evidence that's on -- what do you
6 call those sticks -- flash drives, there's a computer
7 back in the jury room, and I'm sure someone in your group
8 will know how to watch the videos. They're in evidence,
9 you can watch them as many times as you want to. If you
10 have trouble with any of the technology, you just let the
11 court security officer know and we'll get an IT person in
12 there to help you.

13 Now, we have four alternates. And the
14 alternates are Christine Mason, Katherine Wolford, Lauren
15 Dean and Daniel Banks. You will come back into court at
16 9 o'clock in the morning with the jury. When they go to
17 begin deliberation, you will go downstairs to the jury
18 room, and you will have to wait while they deliberate
19 because if one of them has an emergency or gets sick, we
20 will have to substitute one of you.

21 And if that happens, the jury will begin its
22 deliberations all over again so that all 12 people are
23 part of the entire deliberation. We will hope that
24 doesn't happen, but I'm afraid that you will have to
25 stick with us until we are able to make that

1 determination. So I encourage you to bring a book or
2 whatever it is that you like to do when you're sitting
3 around.

4 So that's how we will proceed. So at this
5 time I'm going to excuse all of you. Go home, get a good
6 night's sleep, and you will begin deliberations in the
7 morning. Leave all your notes and everything on your
8 chairs, okay.

9 (Whereupon, at 4:59 p.m. the jury retired
10 from open court.)

11 THE COURT: Okay. So sit down, please. I
12 want everybody back in here at 9 o'clock so that we can
13 excuse them to deliberate. And then I need to make sure
14 that Katheryn has your cell phones. I would encourage
15 you to not get too far away. I have no idea how long it
16 will take them to deliberate, but you never know.
17 Sometimes they come back quickly and we don't want to
18 have a whole lot of delay and keeping them longer -- any
19 longer than they need to be kept.

20 So at this point we will recess, and I'll
21 see you at 9:00 in the morning.

22 (Whereupon, at 5:00 p.m. these were all of
23 the proceedings had in the above-captioned cause on the
24 above-captioned date.)
25

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

That I reported on the stenotype shorthand machine the proceedings held in open court on January 29, 2024, Vol 5-B, in the matter of UNITED STATES OF AMERICA v. CHESTER GALLAGHER, ET AL., Case No. 3:22-cr-327; that said proceedings were reduced to typewritten form by me; and that the foregoing transcript is a true and accurate transcript of said proceedings.

16 s/ Roxann Harkins____
ROXANN HARKINS, RPR, CRR
17 Official Court Reporter